

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 2004

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

[The following testimonies were received by the Subcommittee on Commerce, Justice, and State, the Judiciary, and Related Agencies for inclusion in the record. The submitted materials relate to the fiscal year 2004 budget request for programs within the subcommittee's jurisdiction.]

DEPARTMENTAL WITNESSES

THE JUDICIARY

PREPARED STATEMENT OF LEONIDAS RALPH MECHAM, DIRECTOR, ADMINISTRATIVE
OFFICE OF THE U.S. COURTS

INTRODUCTION

Chairman Gregg, Senator Hollings, and Members of the Subcommittee: thank you for giving me the opportunity to present the fiscal year 2004 budget request for the Administrative Office of the United States Courts (AO).

Let me first take a moment to thank you for your help in conference on the fiscal year 2003 appropriation for the AO. I am grateful of your support in providing the AO with an increase in funding above the fiscal year 2002 appropriation. Crafting an acceptable conference agreement within the limited allocation you were provided was a difficult challenge. Your continued support and recognition of our service to the courts are very much appreciated.

ROLE OF THE ADMINISTRATIVE OFFICE

Created by an Act of Congress in 1939, the Administrative Office of the United States Courts serves as the central support agency for the federal court system, with key responsibility for judicial administration, program management, and oversight.

As such, the AO is the focal point for judiciary communication, information, program leadership, and administrative reform. Our administrators, accountants, systems engineers, analysts, architects, lawyers, statisticians, and other staff provide professional services to meet the needs of judges and staff working in the federal courts nationwide. We also staff the judiciary's policy-making body, the Judicial Conference of the United States, and its 24 committees.

SECURITY OF THE JUDICIARY

During this past year, in the wake of the events of September 11, 2001, and the anthrax incidents that followed, a principal focus of the AO has been to provide additional guidance on security and emergency preparedness to the courts. We have consulted with experts, analyzed alternatives, and taken numerous steps to ensure the safety and security of federal judges, judiciary staff, jurors, attorneys, the public, and others associated with the judicial process. These efforts would not have been possible without your support in providing the judiciary with \$129 million in emer-

agency supplemental funding during fiscal year 2002. I would like to take a few moments to highlight how we have used these monies as well as share with you some of the initiatives we have undertaken in the area of security during the last year.

Emergency Supplemental Funding

First and foremost, the supplemental funding enabled the judiciary to augment the U.S. Marshals Service's workforce with 106 new court security inspectors who will oversee courthouse security and coordinate on- and off-site protection of judges in each of the 94 districts and 12 regional courts of appeals. The funding also covered the costs associated with 358 new Court Security Officers (CSOs) to provide a higher level of security, including extended evening and weekend coverage, enhanced perimeter and internal security patrols, 100 percent identification checks, and visual inspection of vehicles. The inability to provide expanded hours of security coverage in courthouses had been a major weakness in the judiciary's security program. Your assistance in addressing this need is very much appreciated.

In addition, the supplemental funding is being used to pay for such things as bomb detection equipment, enhanced x-ray equipment for screening, bullet-proof vests for CSOs, security enhancements around the perimeter of courthouses, ballistic hardening of screening posts, and special security requirements for courts handling high-threat trials.

We also used emergency supplemental funding to enhance the physical security of the Thurgood Marshall Federal Judiciary Building. Monies have been used to upgrade the fire control system which includes accessible features for secondary locations. Vehicles no longer are allowed to park or idle outside the building. We have purchased new state-of-the-art x-ray machines and video surveillance cameras, installed protective film on perimeter windows, purchased evacuation chairs, radiological monitoring devices, and are pursuing other security upgrades based on expert security advice, and assessment reports.

Safe Mail Handling

As I mentioned in my testimony before the Subcommittee last year, immediately following the incidents of anthrax-contaminated mail, the AO began sending nearly all correspondence to the courts via e-mail or facsimile transmission. In addition, consultant architectural services were obtained to study several existing courthouse mail facilities and handling practices to help develop procedures, standards, and infrastructure for safe mail handling in federal courthouses. In July 2002, the Judicial Conference endorsed recommendations regarding safe mail handling procedures, and the construction of centralized mail rooms in courthouses using \$12 million in fiscal year 2002 emergency supplemental funding. AO staff then developed guidelines and specifications for prototype mail rooms based on the size of the courthouse and the potential volume of mail.

Emergency Preparedness

Also during fiscal year 2002, the AO established the Judiciary Emergency Preparedness Office to give direct guidance and other assistance to courts for emergency preparedness, crisis response, and continuity of operations plans. Such plans focus on the safety of judiciary employees and the public, and ensure that essential functions and activities are not interrupted for long and that critical functions resume as quickly as possible. During the past year, representatives from this office have briefed nearly 2,000 members of the judiciary on the emergency preparedness program.

Continuity of Operations Planning (COOP)

And, with the help of an independent consultant, prototype Continuity of Operations Plan (COOP) templates and instructional materials have been developed for each court type based on the actual COOP plans developed with AO assistance by the courts in New York after the terrorist events of September 11, 2001. Representatives from the courts contributed to the development of the COOP template by identifying specific issues courts need to consider in creating their local plans. The final template was distributed to the courts in November 2002 and will help them identify vulnerabilities in the event of a crisis, do the advanced planning necessary to maintain normal operations, and conduct the extensive coordination required among local organizations. Courts can access templates and checklists about emergency preparedness on the judiciary's Emergency Preparedness Office's website. These templates will be refined and updated based on experience and feedback from the courts.

Court Operations Support Center

We are particularly grateful for your endorsement in the conference report of the recommendations of the Court Operations Support Center and Continuity of Operations Housing Plan report that we provided to the Subcommittee in November 2002. The establishment of a small leased facility at least 20 miles outside of Washington, D.C. will help ensure the continuity of critical court support operations in the event that administrative and automation support functions are shut down as a result of closure of the Thurgood Marshall Federal Judiciary Building. While the primary purpose of the facility will be continuity of operations, consistent with the conference report direction, we intend to provide telework opportunities for judiciary employees at this facility as well. We will work quickly to establish this facility, and I will keep you apprized of its progress.

Courts Supported in High-Profile Trials

The ongoing terrorist threat to our nation and increased focus of federal law enforcement resources on homeland security also mean that the federal courts are likely to be the forum for many more highly publicized and security-sensitive criminal proceedings. We've already had the Richard Reid case in Massachusetts and the John Walker Lindh case in the Eastern District of Virginia. We know of several more that are upcoming, including the Zacarias Moussaoui case, also in the Eastern District of Virginia. The courts hosting these trials face unprecedented and extraordinary challenges involving a wide range of issues from heightened security concerns, greater information technology support needs, and furnishing closed-circuit broadcasts of the proceedings to victims' families.

The courts rely on the AO to provide support and advice to them on all of these issues. AO staff met with court staff from the Court of Appeals for the Fourth Circuit and the Eastern District of Virginia to discuss the possibilities of using videoconferencing for emergency appeals resulting from terrorist-related cases in the circuit. The AO also arranged for classified briefings from the National Security Agency (NSA) for judges and others to discuss increased risks from terrorists trials. In Massachusetts, staff, working with NSA representatives, conducted an information security analysis at the district and appellate courts, followed by briefings for court staff and judges.

I look forward to working with you and the Members of this Subcommittee as we develop more specific plans to ensure that the federal courts are safe and readily accessible to the public. Even in the face of the grim realities of a terrorist attack, chemical or biological contamination, or natural disaster, we are doing our best to ensure that the business of the judiciary can and will continue without disruption.

RELATIONSHIP WITH THE U.S. MARSHALS SERVICE

In my role as Secretary to the Judicial Conference, one of my primary responsibilities is to carry out and implement policy decisions of the Judicial Conference. Not surprising, providing for the safety and security of federal judges, judiciary staff, jurors, attorneys and other participants in the judicial process has always been a top priority for the judiciary.

On May 5, 1981, Chief Justice Warren Burger met with Attorney General William French Smith to discuss the need for improved court security. Following this meeting, in July 1981, Attorney General Smith formed a task force to examine court security requirements and make recommendations for improvements. The task force report was issued in March 1982.

To quote from the Joint Statement of the Chief Justice and the Attorney General before the Judicial Conference of the United States on March 11, 1982:

The provisions of adequate security services to all the participants in the federal judicial system, most especially the Judiciary itself, is a critical element in the relationship between the Department of Justice and the Federal Courts. If we cannot ensure the safety of all participants in the judicial process, we cannot maintain the integrity of the system, we cannot—in sum—"establish justice," as mandated in the preamble to the Constitution of the United States.

The statement goes on to point out that the needs of the judiciary had risen dramatically due to the increase in the number of judges, the increase in the number of cases, combined with the increasingly complex and sensitive nature of the cases and people involved. Mr. Chairman, it is disturbing to note that twenty-one years later these statements are even more relevant.

Today, the federal courts are at risk from domestic and international terrorists, organized domestic and international criminal organizations, and litigants distressed at the outcome of their individual cases. And, because of the role the judiciary plays in the prosecution of international and domestic terrorists, as well as the

high profile of judges and court facilities in most communities, security threats to the federal judicial system will no doubt continue to increase.

USMS Staffing Shortfalls

The judiciary is a strong advocate for the resource needs of the U.S. Marshals Service (USMS). But the judiciary has no binding authority over the general level of security services provided it by the USMS. By statute, the judiciary depends on the Executive Branch's USMS as its security provider. This relationship makes it difficult for us to ensure the judiciary receives the security services it requires.

During the past several years, the U.S. Marshals Service has experienced severe personnel resource deficiencies, particularly at courts along the Southwest border and in cities with burgeoning criminal caseloads. The Marshals Service could not redeploy sufficient resources to these areas without severely short-changing others. The AO recently learned that the USMS' budgeting model identified personnel shortages of approximately 1,200 positions. The USMS is operating at 70 percent of its required staffing. It is critical to the welfare of the judiciary that the USMS be adequately staffed to perform all of its various missions so that judicial security does not take a back seat to other USMS priorities. We are, so to speak, at the mercy of the USMS, the Department of Justice, and the Office of Management and Budget in terms of their ability to provide the number of deputy marshals necessary to ensure the judiciary has a top notch security program.

For more than a year, Judge Jane Roth, Chair of the Judicial Conference Committee on Security and Facilities, and I have been working with the Department of Justice and Director Reyna in an attempt to evaluate the USMS staffing requirements and develop a multi-year strategy to raise the number of funded marshals. To be frank, achieving a collaborative effort has not been easy, but the Department has recently decided to seek input from the judiciary in the development of a revised staffing formula.

During consideration of the third fiscal year 2002 Emergency Supplemental, Senator Graham was successful in amending the bill on the Senate floor to include funding for the hiring of 200 additional deputy U.S. marshals for the protection of the judiciary. With your help in conference, \$37.9 million was provided to support up to 250 new positions for the USMS. Unfortunately, certain funds in the Act were included on a contingent basis—contingent on the President submitting an official budget request designating those funds as an emergency requirement. In a letter dated August 6, 2002, I wrote to the President on behalf of the Judicial Conference to urge expeditious submission of an official budget request so these critically needed resources could be released. The President declined to take that action.

For fiscal year 2003, through your leadership in conference on the Omnibus Appropriations Bill, \$7.9 million was included for 58 additional deputy U.S. marshal positions for the protection of the judiciary for high threat trials, and for districts demonstrating the highest priority needs. For fiscal year 2004, while the President's budget for the U.S. Marshals Service seeks \$26.6 million for 231 additional deputy U.S. marshal positions, it also includes a general base reduction of \$25.1 million to this same account. I am concerned that judicial security may suffer as a result.

Comprehensive Study on Judicial Security

As I have tried to lay out before you, the AO and the Judicial Conference have been concerned with the state of judicial security and the unique position the judiciary finds itself in with regard to its dependence on the Department of Justice for some time. Before September 11, 2001, the AO and the Judicial Conference Committee on Security and Facilities had undertaken a comprehensive look at various aspects of judicial security. Working with a private security contractor, the findings of the review were issued in November 2001. Enhancements funded by the three emergency supplementals and the initiatives that have been undertaken by the AO to strengthen the security of the courts were key recommendations contained in this comprehensive review.

In fact, the 106 supervisory-level deputy U.S. marshal positions included in the emergency supplemental to coordinate judicial security in the 94 districts and 12 regional circuits were a direct outgrowth of a recommendation of the independent security experts. Congress has now transferred the funding to the USMS, Salaries and Expenses account, but I am grateful that you have included statutory language to ensure the funding and positions will continue to be assigned to court security. District marshals and judges have seen improvements in security with the addition of the new security positions.

In the conference report accompanying the fiscal year 2003 Omnibus Appropriation Bill, you have directed the U.S. Marshals Service to conduct a study with an independent consultant on the management of the Court Security program and the

unique relationship between the Federal Judiciary, the U.S. Marshals Service, and the Federal Protective Service in administering the Court Security program and providing facilities security for the judiciary. Mr. Chairman, consistent with our responsibility to monitor the provision of court security and our personal concern for the safety of the public, litigants, attorneys, jurors, judges, court staff and others in the judicial process, I respectfully urge you to permit the judiciary to share its views regarding the management of court security during the course of this study. Certainly the outcome of the study will have profound implications for the future delivery of judicial security. Judge Jane Roth and I hope that you will meet with us if you believe changes to our security arrangements are warranted.

ADMINISTRATIVE OFFICE BUDGET REQUEST

The fiscal year 2004 budget request for the Administrative Office of the U.S. Courts is \$70,584,000, representing an increase of \$7,497,000, or 11.9 percent above the fiscal year 2003 available appropriation. While the percentage increase we are seeking appears significant, it should be noted that more than three-fourths of the requested increase for the AO, \$5,842,000, is necessary to support adjustments to base. These adjustments are mainly comprised of standard pay and general inflationary increases, funding to replace a lower level of fee carryover with appropriated funds, and \$400,000 to restore funding for critical cyclical replacement of information technology equipment that had to be deferred into fiscal year 2004. We are highly dependent on personal computers, data networks, and telecommunications to conduct AO business and support the courts. Funds must be available to ensure security and replacement of essential equipment.

The remaining increase of \$1,655,000, which I will describe in greater detail in a moment, is requested to support new security requirements, strengthen programmatic oversight, audits, reviews and assessments, allow us to fund an increase in the transit subsidy benefit for AO employees, and implement a cafeteria-style flexible benefit program.

AO Staff Support for the Courts

Specifically, \$958,000 is requested to provide nine additional FTEs for program and security oversight. Continuing to develop new programs and systems while supporting a court system whose proportional growth far outpaces that of the AO is a daunting task. The staffing level in the AO has remained essentially the same over the last ten years, while court staffing has grown by 20 percent during the same time period, thus adding substantially to the AO workload.

Each vacancy that occurs is carefully evaluated and used to fulfill our highest priority needs. Nowhere has this been more evident than with our increased focus on security and emergency preparedness. Without additional funding, we have had to shift duties and responsibilities to meet the most pressing and immediate requirements of the courts, and this has meant shortchanging other needs. For example, during fiscal year 2002, the AO devoted \$1 million and 8 FTEs to homeland security efforts. Roughly 50 AO employees devoted staff-hours equivalent to 8 FTEs, developing and implementing enhanced judicial security programs—fulfilling responsibilities and carrying out duties other than those for which their positions were originally funded to support.

I am proud of my staff and their dedication to serving the needs of the courts. However, because sufficient resources must be committed to core functions such as running key systems, providing basic payroll, personnel, and financial management services, and supporting the committees of the Judicial Conference, program oversight functions are in serious need of additional resources.

The nine additional FTEs we are requesting will be applied to the following functions: adding staff to the facilities and security program to ensure greater emphasis on the planning aspects of emergency preparedness and crisis response; providing greater focus and support to the probation and pretrial services program, which currently has only 36 AO staff supporting 8,000 probation and pretrial services personnel in 94 districts nationwide, and a budget of \$850 million; and, increasing program oversight and efficiency reviews to assist the courts in areas such as automated case management, financial management, and developing strengthened procurement policies and procedures.

Mr. Chairman, I hope you can assist us with this much needed request for additional staffing at the AO.

Cafeteria-Style Flexible Benefits Program

As you may recall, the Judicial Conference is seeking legislation that would provide the judiciary with the authority to use appropriated funds and/or fees to help defray the cost of providing supplemental benefits to judiciary employees. Approval

of the legislation will allow a full-flexible cafeteria plan to be available to all judiciary employees, including the AO, providing a supplemental benefits package that is competitive with those already provided throughout the private sector and state governments. Benefits that may potentially be offered in a cafeteria plan include such items as a dental program, a vision program, and life insurance, as well as short-term and long-term disability insurance.

While the House passed its Federal Courts Improvement Bill with this needed authorization in it, the Senate failed to act on the measure during the 107th Congress. However, in anticipation of the enactment of legislation in fiscal year 2003 allowing flexible cafeteria-style benefits to be offered to the judiciary, our fiscal year 2004 request includes \$432,000 to begin implementing such a program for AO employees. A similar request implementing the program judiciary-wide is included in the Salaries and Expenses account.

Transit Subsidy

Pursuant to the Transportation Equity Act for the 21st Century (Public Law 105-78), the AO implemented a transit subsidy benefit for its employees with available funding in fiscal year 2000. The benefit is currently \$60 per month with a participation rate of approximately 60 percent. Executive Order No. 13150 provided for an increase in the allowable benefit to \$100 per month in January 2002. The AO is requesting \$265,000 to increase the subsidy to the currently authorized amount of \$100 per month.

The already limited parking available in and around the Thurgood Marshall Federal Judiciary Building has been further reduced by the loss of parking spaces at Union Station due to security considerations. Compounding the situation is the elimination of nearby parking as a result of the construction of Station Place, which has necessitated employees of the AO to seek parking in remote locations that are unsafe. This, coupled with the continuing increase in traffic congestion in the Washington, D.C. area, has increased AO employee interest in the transit subsidy program. The requested program increase of \$265,000 will allow us to increase the benefit for AO employees to the authorized level of \$100 per month and cover the cost of an anticipated increase in the participation rate to 70 percent.

RESPONSIBILITIES AND ACCOMPLISHMENTS

As I mentioned earlier, the Administrative Office has key responsibility for judicial administration, program management, and oversight. It supports the Judicial Conference and its 24 committees in determining judiciary policies, and develops new methods, systems, and programs for conducting the business of the federal courts. The AO also assists the courts in implementing better management practices, developing and supporting innovative technologies that enhance the operations of the courts, and collecting and analyzing statistics on the business of the federal courts for planning and determining resource needs.

It assists the courts in program management, addressing areas such as case management, jury administration, defender services, court interpreting services, and court reporting. One of our major areas of support is of the probation and pretrial services program for which we are seeking additional oversight positions. In fiscal year 2002, probation and pretrial services offices supervised a record number of offenders and defendants (143,672) living in our communities on pretrial release, probation, parole, or supervised release. The AO staff provided policy guidance and program support to a system that encompasses 94 districts in 500 locations. The staff develop and administer national contracts for drug testing and electronic monitoring and help support 500 local purchase orders for substance abuse and mental health treatment. The AO also provides financial management services to the judiciary including budget formulation, execution, and accounting; and personnel and payroll support for 32,000 judiciary employees. It supports the facilities and security needs of over 800 facilities housing judiciary operations, and conducts training, audits, and reviews to ensure the continued quality and integrity of federal court operations.

In addition, the AO provides necessary support services to other entities including the Judicial Panel on Multi-District Litigation and the Foreign Intelligence Surveillance Court.

Throughout 2002, the AO excelled in its day-to-day responsibilities. Let me take a moment to highlight just a few of these areas.

Financial Stewardship

Working with the courts to ensure the efficient and effective use of resources is a key AO function. It is imperative that we do all in our power to ensure that the monies appropriated to the judiciary are utilized prudently; assets and resources are protected from loss, waste, or abuse; operations are efficient and effective; financial

reports are timely, accurate, and reliable; and business practices comply with applicable laws and regulations. In 2001, a Management Oversight and Stewardship Handbook was published and training on management oversight was provided to chief district judges and chief bankruptcy judges. In 2002, a companion program was launched for court executives. The AO has held two of six planned workshops of the new training program, Management in the Judiciary: The Rules, Tools and Tips of Good Stewardship. To date, 110 court executives have received training. The remaining 332 will receive training in fiscal years 2003 and 2004.

Strengthened Internal Controls

Good internal controls are systematic safeguards that ensure objectives are achieved and assets are protected. With the participation of court managers, AO staff is developing a model internal controls handbook to assist court leaders in managing their courts. The handbook will identify the minimum procedural checks and balances that should be in place for finance, travel, procurement and contracting, property, human resources, information technology, records, and statistical reporting.

Information Technology

Another key responsibility of the AO is developing, implementing, and supporting new automated systems and technologies for the courts. One of our largest automation initiatives in recent years is the Case Management/Electronic Case Files (CM/ECF) project, which permits courts to receive documents over the Internet and maintain electronic case filings. We began national roll-out of CM/ECF in 2001. By March 2003, about 130 district and bankruptcy courts had begun or completed implementing the new systems and national implementation in all courts should be completed in 2005. More than 27,000 attorneys have already filed documents electronically and more than 6 million cases involving more than 15 million documents are in the electronic files systems. In fact, several recent mega-bankruptcies were filed electronically, enhancing both public access and case management. In 2002, the total number of Public Access to Court Electronic Records (PACER) accounts topped 200,000. These systems will save considerable court resources while also significantly improving public access to federal court records.

Many systems have also been developed through the energy and creativity of AO-court partnerships. Probation and pretrial services officers who, as I noted earlier, supervise well over 100,000 persons, have started using the Probation and Pretrial Services Automated Case Tracking System-Electronic Case Management (PACTS-ECM), which in 2002 went live in 17 districts. It is a comprehensive system designed to help probation and pretrial services officers by making offender case information more easily accessible. The system electronically generates, stores, and retrieves investigation and supervision case information, and provides digital images of offenders. It also has remote capabilities to allow officer access while in the field. The PACTS-ECM system is an invaluable resource as the number of offenders released from Federal prison who are serving terms of supervised release continues to escalate.

CONCLUSION

Mr. Chairman, Members of the Subcommittee, I do not believe that any one agency in the executive branch or the legislative branch offers the broad range of services and functions that the AO provides to the federal courts. However, in the interest of time and the particular focus of this hearing, I have tried to limit my testimony to our fiscal year 2004 budget request and the role of the AO in enhancing judicial security and ensuring the safe and uninterrupted delivery of justice. We take our responsibilities and service to the courts seriously and are always looking for ways to improve. I ask your support in accomplishing this by granting the increase the AO is seeking for fiscal year 2004. Thank you.

PREPARED STATEMENT OF THE HONORABLE JOHN G. HEYBURN II, CHAIRMAN,
COMMITTEE ON THE BUDGET, JUDICIAL CONFERENCE OF THE UNITED STATES

INTRODUCTION

Chairman Gregg, Senator Hollings, Members of the Subcommittee, thank you for giving me the opportunity to present the judiciary's fiscal year 2004 budget request.

Before addressing our fiscal year 2004 request, on behalf of the entire judiciary, I want to express our appreciation for the funding levels provided to the judiciary for fiscal year 2003. We understand the difficult decisions and concerns that you faced, and will continue to face, balancing the needs of the newly-established De-

partment of Homeland Security, the ongoing war against terrorism, the war in Iraq, and the funding needs of numerous domestic entities, while trying to hold down spending. Although we did not get all the funding we requested, we are very grateful that you and your dedicated staff worked with us to fund the judiciary's most pressing needs.

BUDGET OVERVIEW

The budget request the judiciary has submitted for fiscal year 2004 is that which is necessary to maintain our current staff and operations and to allow the courts to handle growing workload and other critical needs. The appropriations request is 10.8 percent over the available appropriations for fiscal year 2003. We realize that this request is higher than the 3.8 percent increase requested for discretionary spending, with the exception of homeland security, in the President's Budget. Although we are mindful of the need for fiscal restraint, now more than ever a strong judiciary is critical to the protection of our citizens. Threats to homeland security potentially involve civil or criminal actions that will require court orders and adjudication in this nation's courts.

For all judiciary accounts, we are requesting a \$530 million increase in appropriations over the enacted appropriations for fiscal year 2003. Nearly two-thirds of this requested increase (\$338 million) is required to maintain current operations with pay and benefit adjustments, inflationary adjustments, increases in GSA space rental costs, an increase in filled Article III judgeships, and continued security measures. The remainder (\$192 million) is primarily to provide for the programmatic and workload-related needs such as high-profile terrorist trials, the unprecedented numbers of bankruptcy filings, and significant increases in the probation and pretrial services workload as criminal filings continue to rise and as the number of offenders released from prisons into our communities with a need for drug and mental health treatment steadily increases. A detailed explanation of our fiscal year 2004 request is included as an appendix.

PROTECTION OF FREEDOM

In these uncertain times, with our nation's safety and freedom threatened as it has never been before, our three branches of government must work together to protect the safety of our citizens and our heritage of freedom. A strong, independent federal judiciary, providing equal justice to all, is at the heart of what this nation stands for. As Chief Justice Rehnquist noted in his 2002 year-end report on the federal judiciary, there is a fundamental interdependence of our three separate branches of government when it comes to funding our nation's priorities, and we look to the Legislative and Executive Branches for support, funding and staffing.

WORKLOAD INCREASES

The workload asked of the judiciary is truly uncontrollable, whether it is processing criminal, civil, or bankruptcy cases; or providing jury services, supervision and treatment of defendants and released felons, or representation to those financially unable to obtain private counsel. The judiciary has no major program which can be cut or deferred, only the people who provide those services, the systems that support them, and the facilities that house them. Therefore, when funding is reduced, the only place the reduction can be taken is in the staff and the supporting systems that perform those essential services.

While we are not at a point where I would use the term crisis, I am very concerned about certain workload indicators that I believe are heading in the wrong direction, likely as a result of resource shortfalls.

Pending criminal and bankruptcy cases have grown by 38 percent and 17 percent respectively between 1998 and 2002. This means that the number of cases terminated is less than the number of new cases filed. The number of judges and court staff has not kept pace with the growth in caseload, and a disturbing argument could be made that this lack of judicial resources has resulted in a growth in backlogs.

I am also concerned about our law enforcement function, probation and pretrial services. The caseload in these offices has grown by approximately 16 percent between 1998 and 2002. That in itself is significant, but in addition, the nature of their work has also changed. Officers are supervising more hardened offenders as evidenced by their more extensive criminal histories and the 67 percent increase in the average prison sentence. Furthermore, over this same time period the number of offenders with mental health conditions has grown by 81 percent, and the number with substance abuse problems has grown by 48 percent. While the number of officers has kept pace with the growth in the overall number of cases during this pe-

riod, there has been no increase associated with the increased risk presented by these cases. Within the same relative level of staffing, our probation and pretrial services officers must devote a higher level of supervision to the more hardened criminals and those with drug abuse and mental health issues, which means they must devote less time to their other cases. On the one hand, I applaud them for prioritizing limited resources to the more complex cases, but on the other hand, I am concerned that the level of supervision of their other cases could pose a higher risk to the community in the long run.

The courts experienced record workload increases in fiscal year 2002. Bankruptcy filings grew 8 percent, civil filings in the U.S. district courts climbed 10 percent, criminal cases rose 7 percent, and the number of persons under probation supervision and supervised release as well as the defendants in the pretrial services systems each increased by 4 percent.

As we look to what the future will bring, we note that in Conference report on the fiscal year 2003 appropriations, additional funds were provided to the U.S. Attorneys "to aggressively prosecute cases of corporate fraud" and the funding provided to the FBI included increases to combat violent crime and white collar crime. And, the Bureau of Prisons inmate population has reached an all-time high of 165,000. Approximately 80 percent of these prisoners will be released to the community and will be under the supervision of probation officers at the completion of their sentences.

These are just a few of the indicators that point to continued increases in workload for the federal judiciary. In fiscal year 2003, because of limited funding, we will be unable to provide for the full complement of staffing required to meet the workload requirements. I urge the Subcommittee, as you determine your funding priorities in this constrained environment, to consider providing the federal courts with the resources required to perform the very important functions assigned to them by the Constitution and the Congress. Without the funding increases needed to address growing workload, I believe the judicial system, and those who depend on it to resolve disputes, will begin to suffer.

JUDICIAL PAY

The need to increase judicial pay continues to be one of the most pressing issues facing the judiciary. Federal judicial salaries have lost 23.5 percent of their purchasing power since 1969, while during this same time period private sector wages have increased by 17.5 percent. More than 70 Article III judges, all of whom have life-time appointments, left the bench between 1990 and February 28, 2003—either under the retirement statute if eligible or simply resigning—as did a number of bankruptcy and magistrate judges. Another judge resigned at the end of February, and two more judges have announced their intention to retire from federal bench later this year. During the 1960s only a handful of Article III judges retired or resigned. Many judges no longer take senior status and we are losing their valuable contributions as they seek private sector employment and compensation. A study of 1999 data indicated that senior judges participated in 15 percent of appeals and presided over nearly 20 percent of trials.

Recently, the report of the National Commission on the Public Service, also called the Volcker Commission, supported the need to address this issue. In its final report, the Commission said, "The lag in judicial salaries has gone on too long, and the potential for diminished quality in American jurisprudence is now too large. Too many of America's best lawyers have declined judicial appointments." The salary differential when compared with the legal education profession has become quite dramatic. In 1969, the salaries of district court judges had just been raised to \$40,000 while the salary of the dean of Harvard Law School was \$33,000 and that of an average senior professor at the school was \$28,000. That relationship has now been erased. The salaries of professors and deans at the twenty-five law schools ranked highest in the annual U.S. News and World Report survey found that the average salary for deans of those schools was \$301,639. The average base salary for full professors at those law schools was \$209,571, with summer research and teaching supplements typically ranging between \$33,000 and \$80,000. This compares with a district court judge's salary of \$154,700. The Volcker Commission's report stated, "Judicial salaries are the most egregious example of the failure of federal compensation policies. . . . Unless this is revised soon, the American people will pay a high price for the low salaries we impose on the men and women in whom we invest responsibility for the dispensation of justice". The Commission expressed similar concerns about the inadequacy of congressional and executive salaries and recommended, "Congress should grant an immediate and significant increase in ju-

dicial, executive, and legislative salaries to ensure a reasonable relationship to other professional opportunities.”

I know that to address this issue requires a broad Congressional consensus. Nevertheless, this Committee can take a small, but vital step in the right direction by including the funding for the annual ECI adjustment for judges in this bill.

NEW JUDGESHIPS

Despite the substantial increase in workload, there has not been a major judgeship bill creating additional Article III judges since 1990 or a bankruptcy judgeship bill since 1992. We are grateful for nine district judgeships added in the fiscal year 2000 appropriation, the ten additional district judgeships added in the fiscal year 2001 appropriation, and the 15 additional permanent and temporary district judgeships Congress authorized in November 2002 as part of the Department of Justice authorization act. However, the need for additional appellate, district and bankruptcy judges is critical. For example, in 1992, when the last bankruptcy judgeships were created, each bankruptcy judge handled an average of 2,998 cases; each now handles an average of 4,777 cases. Likewise, appellate and district judges are handling more cases. We hope that you will support and provide funding for the Judicial Conference requests to create 57 additional Article III judgeships and 36 bankruptcy judgeships.

COURT SUPPORT STAFF

The court support staff are the backbone of court operations. From intake to disposition, it is the clerk's staff, along with the pretrial services and probation officers who keep the wheels of justice running smoothly. In order to ensure that resources are distributed as required by workload, the judiciary has developed scientifically-derived staffing formulas to construct the budget request and to allocate funds to the clerks' offices and to the probation and pretrial services offices. As filings and other workload factors fluctuate from year to year, the application of the formulas to the individual court units provides a corresponding increase or decrease in funding. This ensures the equitable allocation of resources to meet workload requirements.

For the duration of the Continuing Resolutions this year, the clerks' offices and probation and pretrial services offices were held to a spending level significantly below the fiscal year 2002 allotments, which put a major strain on the staffs. Most offices were unable to fill critical vacancies, and were anticipating the possibility of RIFs and furloughs. We are grateful for the fiscal year 2003 appropriation, which will allow the courts the funding necessary to maintain a current services level of operations for the remainder of the year. However, it will not allow us to fully fund the formulas that provide for the staff necessary to keep pace with steadily growing workload. The gap between required staff levels and funded staff levels continues to grow.

PROBATION AND PRETRIAL SERVICES

Federal probation and pretrial services officers protect the public through the investigation and supervision of defendants and released offenders within the federal criminal justice system. Pretrial services officers investigate the backgrounds of defendants charged with a federal crime, recommend in a report to the court whether to release or detain a defendant, and supervise those who are released to the community while they await their day in court. The probation officer enters the scene upon a finding of guilt, investigating the offender to provide the court with a presentence report, and supervising all offenders conditionally released to the community. As an example of the dedication of these officers and the difference they make in our communities I would like to tell you a success story that took place in the Eastern District of Virginia.

“JB” began his three-year term of supervised release after serving time at the Federal Correctional Institution in Butner, North Carolina on a conviction for making bomb threats. He had a long-standing history of mental health problems characterized by anger, suspicion, paranoia, and aggressiveness. The FBI, the local police department, and JB's former employer—the target of JB's bomb threats—were extremely anxious about JB's release because of his unstable mental condition.

Supervision in this case became difficult even before release. JB's request to relocate to his hometown in the Middle District of North Carolina was turned down because he had sent numerous threatening letters to his parents. With no acceptable release plan, he was to be released to Richmond—where he had no ties and where his former workplace was located.

A senior Probation Officer (PO) in Virginia Eastern initiated contact with JB before he was released. She established and maintained contacts with local law enforcement, corporate security for the victim, and the probation office in the Middle District of North Carolina. She found JB temporary housing and placed him in treatment. She also began a close collaboration with the Richmond Behavioral and Health Authority, where JB was to participate in a program for homeless people in need of mental health treatment. This community resource provided the medication and treatment necessary to stabilize JB's mental condition and helped him with housing and job placement.

The PO met with JB within 30 minutes of his release from custody. She conducted a thorough initial interview and gave him clear, detailed instructions as to what he was to do next. After that first contact, the PO closely monitored JB, speaking with him by telephone daily, when necessary. With each change of residence or job, the PO made a prompt on-site inspection and added new landlords and employers to her list of collateral contacts.

Because the PO monitored JB's case very closely, she was able to identify potential danger signals and intervene quickly before a crisis arose, and to clarify what she expected of JB in each change of circumstance. She reinforced her expectations of him by using a blend of explanations, warnings, and incentives. For example, when JB took up photography as a hobby, the PO first set clear limits for this potentially intrusive activity. She then both monitored JB's work and complimented his growing skill. The PO also helped JB deal with the requirements of managing an independent life—serving as case manager and service broker with mental health counselors, employers, landlords, Social Security Administration officials, and family members. She encouraged JB in his successes and consoled him in his disappointments, while—within the bounds of confidentiality—also keeping her law enforcement and corporate security contacts informed of his activities and progress.

As a result of these efforts, JB got a job at a local YMCA, where he became a productive, well-liked employee and served as their unofficial photographer. He became stabilized on medication and began receiving monthly social security disability benefits. JB occasionally visited his hometown, under the supervision of the North Carolina Middle probation office, and his relationship with his family improved so much that the district accepted him for courtesy supervision.

When JB ended his term of supervised release, he was stable, back in his hometown with his family, equipped with a new skill, and able to support himself. The PO and the collateral network she developed provided the structure, control, treatment, and support necessary for JB to succeed and for the public to remain safe. Her efforts laid the foundation for JB's continued success in the future.

Helping past offenders avoid becoming repeat offenders, while protecting the community, is the primary goal of supervision. With insufficient staffing resources and limited funds for programs that help offenders become productive members of our communities, we increase the risk to those communities.

Persons under supervision have increased by 16 percent since 1998. More growth is expected for fiscal years 2003 and 2004. Further, the level of danger posed by many of those under supervision and their attendant drug and mental health problems has soared.

DEFENDER SERVICES

Defender Services is also affected by the increase in criminal cases and the number of terrorist trials. In addition to the projected growth in representations in fiscal year 2004, the current projections for fiscal year 2003 exceed the funding provided. This means that some panel attorney payments likely will have to be deferred into fiscal year 2004, further raising the requirements for that year.

We are grateful for the panel attorney rate increase to \$90 per hour provided in fiscal year 2002. This was the first significant raise in private panel attorney hourly rates in most judicial districts since 1986, and it was badly needed. The judiciary is collecting information in response to the Committee's questions about the extent to which the new rate has solved problems in obtaining adequate counsel for Criminal Justice Act (CJA) representation. However, even in a district where the \$90 rate may now allow a court to obtain qualified counsel to accept CJA appointments, lawyers are accepting the cases at a significant financial sacrifice which ultimately will not bode well for the criminal justice system.

To ensure that the panel rates do not further decline, in real terms, below the rates envisioned by the CJA, the Judicial Conference again has requested that the Congress raise the rate to \$113 per hour. Even at \$113 per hour, CJA counsel, who provide representation guaranteed by our Constitution, would be underpaid compared to rates paid by many federal agencies to private lawyers. In a survey of hour-

ly rates paid to private counsel by government agencies conducted in 2001, the General Accounting Office found that the average hourly fees paid to private counsel ranged from \$125 to \$357, depending on the agency and the type of legal services. In addition, the average hourly billing rate charged by privately retained counsel, according to The 2002 Small Law Firm Economic Survey (Altman Weil, Inc.), is approximately \$190 for sole practitioners and partners in small law firms. The judiciary and panel attorneys understand that CJA hourly rates were not intended to match those that lawyers charge their private clients. It is the judiciary's view that panel attorneys' compensation should cover reasonable overhead and a fair hourly fee, which warrants raising the CJA rate to \$113.

In deciding to continue to seek a nationwide \$113 hourly rate for fiscal year 2004, the judiciary considered the possibility of proposing geographic-based rates. In addition to the reasons supporting a \$113 rate, the judiciary took note of several factors regarding geographic-based rates, including that the cost of living in an area is not the only factor in a court's ability to recruit and retain qualified attorneys to accept CJA appointments. For example, in a low-cost rural area where there is a minimal retained federal criminal practice and a limited pool of lawyers with federal criminal defense experience, a higher rate may be needed in order to provide sufficient incentive for attorneys to invest the time required to develop the necessary expertise and to then be willing to take on a substantial portion of the CJA caseload. The judiciary will continue to examine options, such as geographic-based rates, in developing its future funding requests.

We are also requesting, for the first time, an increase in the maximum hourly rate to \$157 for panel attorney compensation in capital cases. The \$157 hourly rate represents the \$125 rate adjusted for the cumulative cost-of-living adjustments provided for in the Antiterrorism and Effective Death Penalty Act of 1996. Counsel accepting appointments to capital cases typically are sole practitioners or are from small, independent firms, which do not have other attorneys willing or able to subsidize the cost of the CJA work. The amount of time that the attorneys need to devote to these capital cases is so extensive that it is generally impossible for the attorneys to handle other cases concurrently. The current maximum capital hourly rate of \$125 is significantly below the market rates charged by lawyers for providing representation in comparable high-stakes, complex, and time-consuming cases. An increase would be the first in the maximum rate for capital cases since it was set statutorily in 1996. The cost of this increase is only \$2.9 million. We urge you to consider it.

COURT SECURITY

We appreciate your continued support of our Court Security program and understand your concerns regarding budget administration and oversight of the program. This is a unique account—appropriated to the judiciary but primarily managed by the Department of Justice. The safety of the public, litigants, attorneys, jurors, judges, court staff and others in the judicial process is of primary concern to us, and we are fully committed to working with the USMS to make sure that the program is successful and that the resources you provide are managed in the most efficient and effective manner. You have directed the USMS to conduct a study on the management of this program, and we respectfully ask that the judiciary be involved actively in this study since the mission of the program is so important to us.

In these troubled times when courthouses are such visible targets for terrorists, our Court Security program is more critical than ever. Court Security Officers (CSO) and security systems are key aspects in providing physical security to the courts. Statistical data provided by the USMS indicates that our security process detected 641,489 weapons such as guns, knives, and other items prohibited in courthouses in fiscal year 2002. The USMS also reported the detention or arrest of 16 persons related to security breaches in courthouses during the year. I will share with you a few stories illustrating the vigilance and professionalism of our CSOs.

In October of 2002, in the district of Colorado, a CSO intercepted an individual attempting to gain entrance into the courthouse with a .380 caliber automatic handgun concealed in a leather carrying case. The individual was also in possession of a loaded magazine. The individual was taken into custody.

In December of 2001 in the Federal Courthouse and Post Office in El Dorado, Arkansas, two CSOs noticed a man in the Post Office lobby with a gun and badge. Although it is a reasonably large city, one of the CSOs recognized this man as an individual who some years before had been in court for a civil charge and was considered to have mental health problems. The two CSOs approached him and had to fight him to the floor. The individual had a fake badge and a real gun. He was

apprehended, charged and found guilty of several charges including carrying a weapon into a federal building.

In February of 2002, an individual used a hammer to shatter the glass in the front entrance door of the U.S. Federal Building at Beckley, West Virginia. Two CSOs quickly subdued this individual and restrained him until he was taken into custody by the U.S. Marshals Service.

During a court session in the Southern District of Ohio a prisoner attempted escape. The prisoner was able to get out of the courtroom and almost out the front door, but two CSOs tackled and apprehended him at the front entrance.

We appreciate your increased support and funding for this program. While we recognize the practical reasons for transferring the 106 supervisory deputy marshal positions, approved by Congress in the fiscal year 2002 supplemental appropriation, to the USMS in fiscal year 2003, these positions are a linchpin to effective security of our courthouses, and we look for your support to ensure that they will continue to be dedicated to courthouse security, and to our participation in the study on the management of the Court Security program.

CAFETERIA-STYLE EMPLOYEES BENEFITS PROGRAM

For the past several years, the judiciary has been a leader in offering enhanced benefits to employees. Long-term care was introduced in 1999, followed by the existing flexible benefits plan, introduced in fiscal year 2000, which offers pre-tax benefits such as flexible spending accounts for health care, dependent care, payment of health insurance premiums, and commuter reimbursement. The judiciary was able to implement these benefits within the existing statutory framework and without requiring additional funds. We would like to do more for our employees to stay competitive in an era when skilled workers change jobs frequently. This is especially important to the judiciary as the work force of tempered professionals reaches retirement age and we are looking to maintain a qualified, stable work force. We cannot continue to be competitive in the employment market with substandard benefits, and so we are seeking legislation and funding to establish a cafeteria-style benefits program that would be funded in part by a modest per-employee contribution by the judiciary. The combined employee and employer contributions could eventually be used to purchase benefits from a menu of choices such as dental insurance, vision insurance, leave conversion, expanded commuter subsidies, short-term and long-term disability, and prescription drug insurance and mental health insurance to plug gaps in the Federal Employees Health Benefits (FEHB) programs. Benefit programs like these are common in state governments, the private sector, and other federal agencies such as the Federal Reserve, Federal Deposit Insurance Corporation, Comptroller of the Currency and the Postal Service—entities with which we compete for professional staff.

Although the House passed the Federal Courts Improvement Bill with the needed authorization allowing us to use appropriated funds and/or fees to help defray the cost of providing these supplemental benefits, the Senate failed to act on the measure during the 107th Congress. However, in anticipation of the enactment of legislation in fiscal year 2003 allowing flexible cafeteria-style benefits to be offered in the judiciary, we are including a request for \$15.9 million, hoping to begin implementing the program in fiscal year 2004.

CONTRIBUTIONS OF THE ADMINISTRATIVE OFFICE

The Administrative Office of the United States Courts serves as the central support agency for the federal courts, with key responsibility for judicial administration, policy implementation, program management, and oversight. The Administrative Office (AO) not only performs important administrative functions such as personnel, payroll, procurement, space management and planning, and accounting, but also provides a broad range of legal, financial, management, program, and information technology services to the courts. The AO's staff has been essentially frozen for ten years, while its work has expanded to support the courts.

In the wake of the tragic events of September 11 and the anthrax mail situation, the AO has been working to provide additional guidance on security and emergency preparedness to the courts. The Director established a permanent Judiciary Emergency Preparedness Office to focus on crisis response, occupant emergency planning, and continuity of operations planning. Following the anthrax mail contamination crisis, the AO provided advice and contract support to test for anthrax and address mail handling concerns at courts across the nation. To avoid future contaminated mailings, the AO began using e-mail broadcasts, facsimile transmissions, and more extensive posting to our intranet site, the J-Net, to deliver information to the courts.

With the help of an independent consultant, prototype Continuity of Operation Plan (COOP) templates and instructional materials have been developed for each court type based on the actual COOP plans for the U.S. Court of Appeals for the Second Circuit and the District and Bankruptcy Courts for the Southern District of New York. Templates and checklists about emergency preparedness have been made available on the Emergency Preparedness Office's J-Net website.

The Director created a project team to assess the feasibility of establishing a Court Operation Support Center (COSC) outside downtown Washington, DC to address the vulnerability of key administrative and technical support to the courts. The primary objective of an off-site COSC is to ensure that support to the courts would continue uninterrupted in the event the Thurgood Marshall Federal Judiciary Building is rendered inaccessible. We intend to provide telework opportunities for judiciary employees at this facility as well. We are grateful for your endorsement of the COSC in the conference report on the fiscal year 2003 appropriations.

As courts are facing more highly publicized and security-sensitive criminal proceedings, the AO has been providing support and advice to the courts on a wide range of issues from heightened security concerns to information technology, and furnishing closed-circuit broadcasts of the proceedings to victims' families.

Working with the courts to ensure the efficient and effective use of resources is a key AO function. In fiscal year 2001, a Management Oversight and Stewardship Handbook was published and training on management oversight was provided to chief district judges and chief bankruptcy judges. In 2002, a companion program was launched for court executives. The AO has held two of the six planned workshops of the new training program, Management in the Judiciary: The Rules, Tools and Tips of Good Stewardship.

The fiscal year 2004 budget request for the AO is \$70,584,000, representing an increase of \$7,497,000, or 11.9 percent above the fiscal year 2003 available appropriation. More than three-fourths of the requested increase is necessary to support adjustments to base, mainly standard pay and general inflationary increases, as well as funding to replace a lower level of fee carryover with appropriated funds. Of the remaining \$1,655,000 increase, \$958,000 is requested to provide nine additional FTE for program and security oversight. The staffing level in the AO has remained essentially the same over the last ten years, while court staffing has grown by 15 percent during the same time period.

I urge the Committee to fund fully the AO's budget request. The increase in funding will ensure that the AO continues to provide program leadership and administrative support to the courts, and to lead the efforts for them to operate efficiently.

CONTRIBUTIONS OF THE FEDERAL JUDICIAL CENTER

The Federal Judicial Center is seeking a modest 8.3 percent increase over its current appropriation. The Center is the federal judiciary's education and research arm. Its support is vital to the work of federal judges and the personnel of the courts.

Judge Smith will return to California later this year to resume her duties as a U.S. district judge. All of us in the judiciary are grateful to her and to the Center for its contributions under her four years of leadership.

With Judge Smith, I thank you for last year's increase for the Center, including the confirmation that the funds transferred in 2002 are part of its base budget and available to support some of the distance education positions that it has requested for several years.

A main element of the increase that the Center seeks in 2004 would restore its basic judicial education programs to a twelve-month cycle, rather than the current eighteen-month cycle. Having to go a year and a half between continuing education programs has been a matter of great concern to judges over the country. These programs provide updates on caselaw trends, on innovations in managing cases, and on such specialized topics as admissibility of scientific evidence. Furthermore, we can share notes with colleagues from other courts as well as with the excellent faculty that the Center assembles.

I want also to recognize the importance of the Center's research, primarily for committees of the Judicial Conference, as detailed in Judge Smith's statement, and the Center's education to enhance management skills in the federal courts. I participated last fall in a Center program for new chief judges and unit executives, and it has helped me immensely. Center programs also provide a forum to stress the importance of economy in administration, which I did earlier this week when speaking at a Center conference for the clerks and chief deputies of the courts of appeals and the clerks of the bankruptcy appellate panels. Last October I provided similar

guidance on fiscal realities and responsibility when making a presentation at a Center workshop for the clerks and chief deputies of our federal district courts.

Center programs for our clerk's offices and our probation, and pretrial services offices, almost all of it by satellite and on the Web, has never been more important for court executives who must deal with employee unease and insecurity in these troubled times. Its importance highlights the need for the educational technology positions the Center requests.

I believe the Center's request deserves the committee's support and urge favorable action on the full amount.

CONCLUSION

Chairman Gregg and Members of the Subcommittee, this concludes my statement. I look forward to working with you as you work to develop the fiscal year 2004 appropriation bill for the Judiciary.

APPENDIX

SUMMARY

The fiscal year 2004 appropriation request for the Courts of Appeals, District Courts and Other Judicial Services totals \$5,175,878,000, an increase of \$540,200,000, or 11.7 percent, over the fiscal year 2003 available appropriations. In addition to appropriated funds, the judiciary utilizes other funding sources to supplement our appropriations including fee collections, carry forward of fee balances from a prior year, and the use of no-year funds. When all sources of funds are considered, the increase in obligations for fiscal year 2004 is only \$429,435,000 or 8.5 percent.

Of the \$540,200,000 increase in appropriations, 66 percent (\$357,481,000) is adjustments to the fiscal year 2003 base associated with standard pay and other inflationary increases as well as other adjustments that will allow the courts to maintain current services in fiscal year 2004. The remaining 34 percent (\$182,719,000) is needed to respond to increased requirements for magistrate judges, federal defender offices, security, drug and mental health treatment, and to fund additional court staff required to process growing workload. The request for the principal programs are summarized below.

Salaries and Expenses

The salaries and expenses of circuit, district, and bankruptcy courts and probation and pretrial services offices account for most of our request. A total of \$4,467,930,000 in obligations is required for this account, including funding for the Vaccine Injury program, in fiscal year 2004. Funding totaling \$276,285,000 is expected to be available from other sources including fee collections and carryforward balances to fund S&E requirements. This leaves an appropriation need of \$4,191,645,000, which is \$411,864,000 above the fiscal year 2003 available appropriation.

Of the \$411,864,000 increase, 61 percent (\$249,697,000) is needed to fund adjustments to the fiscal year 2003 base including: pay and benefit increases for judges (\$12,563,000); increases in the number of filled Article III judges, senior judges, magistrates judges adjustments, and the filling of vacant Special Masters to handle vaccine injury cases (\$13,725,000); pay and benefit increases for court support and probation and pretrial services staff (\$95,327,000); increases necessary to maintain fiscal year 2003 staffing levels and automation support because of a reduction in non-appropriated funding (\$30,571,000); increases for space rental and associated costs (\$60,084,000); inflationary increases for operating costs (\$12,339,000); increases to support existing and newly installed automated systems and to continue development of new information technology systems (\$17,934,000); and increases for maintenance of telecommunications systems and systems for new space coming online (\$7,154,000).

The remaining 39 percent (\$162,167,000) will fund 10 additional magistrate judges and their staff to help Article III judges handle the growing volume of civil and criminal cases facing the courts (\$4,119,000); 807 court support FTEs to address the shortfall in the level of staffing and operating costs funded in fiscal year 2003 (\$97,025,000); 427 court support FTEs for a net increase in workload in fiscal year 2004 (\$28,200,000); a cafeteria-style flexible benefits program for employees to reduce turnover and attract high quality new hires (\$15,886,000); increased mental health and substance abuse treatment for projected growth in the number of offenders and defendants under supervision requiring this treatment (\$7,369,000); annual recurring costs of the judiciary's off-site operations support center (\$3,495,000); ad-

ditional funding for the installation of courtroom audio systems during the construction of new courthouses (\$4,384,000); and funding for background investigations for probation and pretrial services officers and officer assistants, and for court staff in sensitive positions (\$1,689,000).

Defender Services

An appropriation of \$635,481,000 is required for the Defender Services program to provide representation for eligible criminal defendants in fiscal year 2004. This is an increase of \$100,520,000 above the available fiscal year 2003 appropriation.

Of this increase, 86 percent (\$86,909,000) is needed for adjustments to the fiscal year 2003 base for inflationary and workload increases. Included in these adjustments are standard pay and inflation increases for Federal Defender Organizations (\$14,002,000); a cost-of-living adjustment for panel attorneys (\$1,247,000); other inflationary increases (\$2,149,000); increase in the projected number of representations (\$36,923,000); funding to maintain base caseload costs (\$33,188,000); and a reduction in non-recurring costs (–\$600,000).

The remaining increase of 14 percent (\$13,611,000) will fund an increase in the hourly panel attorney rate for non-capital cases, above the inflationary adjustment, to \$113 beginning on April 1, 2004 (\$10,378,000); an increase in the hourly panel attorney rate for capital cases, beyond the inflationary increase requested, to \$157 effective on April 1, 2004 (\$2,633,000); and start-up costs of two new federal defender offices expected to be opened in fiscal year 2004 (\$600,000). The Congress and the Judicial Conference have urged us to establish more federal defender organizations as an alternative to using panel attorneys in districts where this would be appropriate.

Fees of Jurors and Commissioners

For the Fees of Jurors program, an appropriation of \$53,181,000 is required, a decline of \$1,100,000 from the fiscal year 2003 available appropriation. This decline is the result of a decrease in the projected number of juror days (–\$1,447,000); and an increase for inflation (\$347,000).

Court Security

For the Court Security program, an appropriation of \$295,571,000 is required, which is an increase of \$28,916,000 above the fiscal year 2003 available appropriation. Of this increase, 76 percent (\$21,975,000) is for adjustments to base including: an increase for standard pay, benefit and contractual services inflation (\$13,237,000); an increase to annualize the costs for 10 new court security officers (CSOs) partially funded in fiscal year 2003 (\$290,000); non-pay inflationary increases (\$303,000); an increase of 26 court security officers for new or existing courthouse space (\$980,000); and an increase for the cyclical replacement of security systems and equipment (\$7,165,000).

The remaining increase of 24 percent (\$6,941,000) will fund security systems and equipment for perimeter security, CSO radio repeater installations, and systems in probation and pretrial services offices (\$6,072,000); CSO orientation training and contracting officer training for staff who administer the CSO contract (\$550,000); and four additional FTE to administer the Court Security Program at the U.S. Marshals Service to improve program oversight and administration (\$319,000).

PREPARED STATEMENT OF GREGORY W. CARMAN, CHIEF JUDGE, UNITED STATES COURT OF INTERNATIONAL TRADE

Chairman Gregg, Senator Hollings, and Members of the Subcommittee: thank you once again for allowing me this opportunity to submit this statement on behalf of the United States Court of International Trade, which is a national trial-level federal court established under Article III of the Constitution with exclusive nationwide jurisdiction over civil actions pertaining to matters arising out of the administration and enforcement of the customs and international trade laws of the United States.

The Court's budget request for fiscal year 2004 is \$14,206,000, which is \$519,000 or 3.8 percent over the fiscal year 2003 enacted appropriation of \$13,687,000 and an increase of \$597,000 or 4.4 percent over the level after the rescission imposed by Congress. This request will enable the Court to maintain current services and provide for standard pay and other inflationary adjustments to base. The Court's budget request included a small program increase of \$50,000 to upgrade its security recording system to a digital system that will increase the accuracy and reliability of its current system, while, at the same time enhancing its internal and external surveillance capabilities. The requested increase, however, was included in the re-

cently enacted Wartime Supplemental Appropriation Bill and will allow us to move forward with this security upgrade during fiscal year 2003. The Court continues, as it has done for the past nine years, to hold its requested budget increases below 6 percent.

In response to several studies conducted by GSA and the U.S. Marshals Service, and in the wake of September 11th, the Court, in fiscal year 2002, requested and received funds for an architectural analysis of the structure of the Courthouse in order to determine the vulnerability of the facility in case of a bomb blast and/or a terrorist attack. As a result of this analysis, the Court, using other funds from its fiscal year 2002 appropriation, asked the contractor for recommendations as to the feasibility of modifying the existing building in a manner that would ensure the health, security and effective operation of the Court. The contractor's final report was completed at the beginning of fiscal year 2003. Specific recommendations were made that would make the courthouse less vulnerable and safer for the Judges, the employees and the public. The Court is working closely with all relevant agencies to obtain appropriate funding for the implementation of the needed modifications to the building.

In accordance with its Long Range Plan, the Court continues to upgrade its technology infrastructure and expand staff development programs in the areas of technology and job related skills without requesting additional funds. The Court is in the process of completing the implementation of a customized version of the Federal Judiciary's Case Management/Electronic Case Files (CM/ECF.) System and the related file tracking, scanning and indexing solutions. The upgrading of the wiring of its data network and voice connections will be completed in fiscal year 2003. This upgrade will greatly increase the Court's access to the Judiciary's Data Communications Network (DCN), improve data speeds and enable the Court to address its current and future telecommunications needs. Additionally, the Court has installed its own frame relay connections for direct access to the DCN and a separate frame relay connection that enables the Court to host public access systems, such as its Internet Website. In fiscal year 2003, the Court will purchase a Virtual Private Network System (VPN) that will provide high speed remote access to Court systems by the Judges and Court employees working at remote locations. As in the past, the Court will continue to use its Judiciary Information Technology Fund for the cyclical replacement of aging desktop and server based hardware systems.

In fiscal year 2004, the Court remains committed to ensuring that the Court's technology infrastructure will continue to support its short and long term needs, thereby permitting the Court to operate efficiently and effectively. Among the projects to be supported by the Court's budget request and the carryforward balance from its Judiciary Information Technology Fund are: (1) supporting the Court's Case Management/Electronic Case Files (CM/EC) System; (2) expanding, improving and supporting the Court's remote access capability; (3) supporting a windows-based financial management system; (4) improving the Court's disaster recovery capabilities; (5) supporting new software applications that not only enable Judges and Court staff to view instructional videos at individual workstations, but integrates the Federal Judiciary's Training Network with the Court's local area network; (6) upgrading the Court's networked records management and tracking system for all case records; and (7) upgrading and supporting the online library automation system that enables the Judges and Court staff to search electronically for books and resource materials in the Court's Library collection.

Additionally, the fiscal year 2004 request will enable the Court to continue its cyclical maintenance program of the Court's facilities, including the replacement of certain furniture with ergonomic designs that will minimize the risk of injury to Court personnel.

Lastly, the fiscal year 2004 request also includes funds for the continued support and maintenance of security system upgrades implemented by the Court in fiscal years 1999 through 2003.

The Court's continued commitment to fulfill its mission through the use of technology will enable it to enhance the delivery of services to the Court family, bar and public.

I would like to reaffirm that the Court will continue, as it has in the past, to conserve its financial resources through sound and prudent personnel and fiscal management practices. The Court's "General Statement and Information" and "Justification of Changes," which provide more detailed descriptions of each line item adjustment, were submitted previously. If the Committee requires any additional information, we will be pleased to submit it.

PREPARED STATEMENT OF HON. FERN M. SMITH, DIRECTOR, FEDERAL JUDICIAL
CENTER

Mr. Chairman, Members of the Subcommittee: I am pleased to submit this statement in support of the Federal Judicial Center's request for fiscal 2004 funds to help it improve the administration of justice.

This is the last request I will submit to you; this fall, having completed my four-year commitment, I will return to the Northern District of California, where I have been a U.S. district judge since 1988. It has been a pleasure to work with the subcommittee and its staff.

The Center's statutory Board, which the Chief Justice chairs, has selected U.S. District Judge Barbara Rothstein of Seattle as the Center's ninth director. She will take up her duties in early September.

This statement summarizes our 2004 request and provides a brief accounting of major Center activities to promote improved judicial administration in the United States and, to the degree our resources permit it, to work with other public and private organizations to provide help to the judiciaries in foreign countries that need our assistance.

As to the Center's 2003 funding, especially in light of the fiscal constraints you faced, I am grateful for the base funding and the partial adjustments to that funding. Thank you as well for recognizing as part of the base budget, the funds you transferred in 2002 for distance education, which provide us some of the positions for distance education that we have been requesting since 1998.

2004 REQUEST

The Center's Board unanimously approved the 2004 request for \$22,434,000, an 8.3 percent increase to provide adjustments to the 2003 base, modest program enhancements to allow a return to a twelve-month cycle of education programs for federal judges, and five additional distance education positions. Statement of Hon. Fern M. Smith, Director, Federal Judicial Center, May 1, 2003

Judicial education and training programs (\$500,000)

The funds for more timely education for federal judges are vital to our task of keeping judges knowledgeable about the constant changes in the law, science, and technology. Last year, in fact, the Board prepared its own statement supporting this element of that year's request, noting "the Board does not burden Congress with direct communications about the Center's appropriation, relying instead on the Center director for that task. The special importance of restoring these programs to an annual basis merits an exception to that practice."

Center educational programs last year reached almost 31,700 participants. Almost 80 percent participated in satellite broadcasts and other forms of distance education.

For federal judges, the Center provides education in several forms, including manuals, satellite broadcasts, and small seminars or workshops to orient new judges to their responsibilities and to provide experienced judges with assistance in specific areas, such as mediation or intellectual property law.

Another fundamental element of our education for judges is periodic, general continuing education programs for circuit judges, district judges, magistrate judges, and bankruptcy judges. These programs assist judges on a variety of subjects, including updating them on new case law relevant to frequently litigated issues, describing new techniques of case management, and reviewing the ethics requirements that govern judges. Moreover, these programs allow judges to learn from their colleagues as well as from the faculty we assemble and to share innovations that have proven successful as well as those that have not.

Until 1999, a judge could attend such a general program once a year. In 1999, we shifted to an eighteen-month cycle as our appropriation declined and because we thought that distance education could compensate for longer intervals between programs.

That decision has provoked considerable negative commentary from judges across the country. As the Center Board said last year, "[o]f all the comments we receive from other judges about the Center's work, none is as frequent and widespread as the need to make these programs available on an annual basis. The Center's general continuing education programs are the core of its educational effort for judges. They are essential to helping judges meet the challenges of rapid change, increasing complexity, and growing numbers in the cases before them."

Seeking this modest increase in funds for judicial education seminars in no way signals the Center's retreat from distance education. In most respects, distance education has been a great success. Our travel budget, with this request, would still be about \$1,000,000 below our 1995 travel budget. We want to continue to empha-

size cost-effective, non-travel, asynchronous learning for the employees of the courts and for judges to the degree it is effective.

At the same time, we recognize that some face-to-face educational opportunities are essential, especially for those with responsibilities like those of federal judges. Heavy caseloads and the isolation inherent in performing judicial duties limit opportunities for judges to meet in a detached atmosphere and discuss the nuances of changing precedents and case-management techniques. These are not subjects or procedures that lend themselves to learning solely by computer or video screen.

Five additional positions (3 FTE) to enhance the Center's use of distance education technologies (\$311,000)

The Center has long relied on distance education technologies for the bulk of the education it provides, including the Federal Judicial Television Network, which the Center began operating in April 1998. Since then, the Center has been requesting ten additional positions for video, multimedia, and automation specialists to support distance education and its necessary technologies. You provided for some of these positions in 2002 by transferring \$400,000 to the Center's appropriation from the funds that Congress had earlier transferred to a completed federal appellate courts study commission, and then including those funds in our 2003 base. We appreciate that assistance, but the need for the remaining positions has not diminished, and so I am requesting again funds to provide for five additional distance education-related positions.

The five additional positions we seek in 2004 will permit us to bring on additional software engineers and computer-training technologists to ensure the federal courts have readily available, quality education without the need or expense of travel.

CENTER SERVICES AND ACTIVITIES

The following summary of current Center activities is an accounting for our stewardship of the funds you provide.

Promoting security in the administration of justice

The Center's "critical incident stress management" training helps courts develop teams to provide crisis intervention to their personnel victimized by natural disasters, terrorist attacks, and work-related trauma. Such teams assisted in the crisis response for the New York federal courts following 9/11.

Center Federal Judicial Television Network series on security include:

- crisis management training through *Leading in Times of Crisis*, featuring court managers who have successfully confronted crises in their own courts, and *Confronting Crises: The Employee's Perspective*, to help staff prepare for potential security threats and crises
- a safety series to enable probation and pretrial services officers to mentally rehearse appropriate reactions to security threats in the office, in the field, and during home contacts with offenders, defendants, and third parties.

Additionally, at the request of the Judicial Conference Committee on Court Administration and Case Management, the Center is assessing the Conference's Criminal Case Files Pilot Programs to learn, among other things, about the possible harm or threats of harm that may result from providing remote public electronic access to documents filed in criminal cases.

Promoting the fair and efficient disposition of litigation

Helping judges dispose of cases fairly, quickly, and inexpensively is a major theme of our initial orientation seminars for new judges. We also provide judges an extensive array of manuals and sourcebooks about case-management techniques, including recurring problems in criminal trials, managing cases for resolution by alternatives to conventional procedures, and effective use of courtroom technology.

Our research for committees of the Judicial Conference includes analyses of class action litigation and a study of the incidence of sealed settlements in district courts across the country, a subject of national interest since the recent decision of the federal district court in South Carolina not to permit the practice.

Judicial ethics

We work closely with the Judicial Conference Committee on the Codes of Conduct to keep judges and their staffs fully informed of their ethical obligations and to help them understand the often complex rules designed to promote judicial impartiality. This year we published two new guides, one for judges on their recusal obligations under the judicial disqualification statute and one for judges' law clerks on the restrictions that apply to them.

Helping courts help offenders

The Center is conducting two related studies of federal court programs, prompted by increased national interest in offender re-entry programs and recent legislation providing post-incarceration vocational and remedial educational opportunities for certain releasees. One study will produce empirical information about federal probation officers' efforts to assist appropriate prisoners in preparing for reentry into the community. The other will help the Eastern District of Missouri evaluate its Offender Employment Program, which emphasizes the educational and employment needs of the offender and provides employment-related services coordinated by probation officers who are trained employment specialists.

We are also assessing the substance abuse treatment and mental health services needs of Native American offenders, in order to help probation and pretrial services officers better meet the special needs of this group.

Promoting public understanding of the judicial process

We recently released an interactive Web site, "Inside the Federal Courts," available at <http://www.fjc.gov>, that helps federal court employees, as well as the media and citizens of this and other countries, understand the federal court system's structure and operation. This includes a section on Congress's role in improving the federal courts. We also produced an eighteen-minute video, *An Introduction to the Patent System*, that judges may use to help explain patents and the patent process to jurors. Bar associations are making copies available to lawyers and the public.

Assisting the judiciaries of foreign countries

Mr. Chairman, I would also like to give you a brief update of our work to promote independent and effective dispute resolution in the courts of foreign countries.

In the last twelve months, the Center has provided briefings about the U.S. judicial system to 488 judges and legal officials from 66 countries, as well as a limited amount of more substantial assistance, either by in-country technical assistance or seminars held here in the United States. Neither our briefings nor our more extensive projects for foreign judiciaries are funded from the Center's appropriation. We provide this assistance at the request of either domestic agencies or foreign institutions, which fund the travel, lodging, and subsistence.

Our activities this year included a small seminar on educational techniques with our counterparts from Mexico and Canada, this a follow-up to the Chief Justice's meeting with the President of the Supreme Court of Mexico in September 2001. The Center also hosted a number of judges, scholars, and government officials as part of its Visiting Foreign Judicial Fellows Program. These included a labor judge from Brazil, who researched the use of alternative dispute resolution at the appellate level, and an official from the Ministry of Justice of Azerbaijan, who studied judicial education. In October 2002, I, and another representative from the Center, participated in a CEELI Institute conference in Prague, Czech Republic, that brought together representatives of judicial training centers from Russia, Eastern Europe, and Central Asia to discuss strategies for delivering judicial education. The Center continues to facilitate a variety of other international exchanges, including a bimonthly digital video-conference between judges from Ecuador and the United States and a recent panel discussion on the judiciary for officials from Afghanistan.

The Center workplace

The Center's statute provides greater flexibility in personnel matters than many federal agencies enjoy. We have used that flexibility to adopt a broad payband system and to implement employee-recommended policies that will further our ability to give the taxpayers their due while providing employees flexible work schedules and workplace options. We know that the latter often contributes to the former.

Well before 1990, we permitted flextime for all employees. Since 1994, we have allowed employees to choose a compressed work schedule. All of our employees use flextime and more than half are on compressed work schedules.

In 1997 we established a telecommuting policy applicable to all Center employees, subject to managers' discretion. Although it is not practical to do some Center jobs—such as video production—at home, 8 percent of Center employees telecommute regularly. We also make telecommuting available to employees on a day-by-day basis, as the needs present themselves, and last year, we accommodated more than 50 requests from a staff of fewer than 140. We intend to do even better in this regard next year.

To encourage employee use of public transportation, we offer our employees a transportation subsidy of \$60 per month.

Our employees are also eligible to participate in a number of supplemental benefits programs, such as pretax health insurance premium payments, flexible spending

accounts to fund health care, child care, and commuter costs (beyond those covered by the subsidy noted above), and a long-term care insurance program. We are grateful to the Administrative Office of the U.S. Courts for developing these innovative policies.

Mr. Chairman, I appreciate this opportunity to explain our budgetary needs for the next fiscal year and to describe some of the Center's work and its effect on the work of the courts.

I will be pleased to answer any questions you may have.

PREPARED STATEMENT OF DIANA E. MURPHY, CHAIR, UNITED STATES SENTENCING COMMISSION

Chairman Gregg, Senator Hollings, Members of the Subcommittee, thank you for the opportunity to submit a statement in support of the United States Sentencing Commission's appropriation request for fiscal year 2004. The Commission was resurrected with the appointment of a full complement of seven voting commissioners on November 15, 1999, and I currently serve as Chair. In a relatively brief period, the Commission has reestablished its policy making role in the federal criminal justice system as envisioned by Congress under the Sentencing Reform Act of 1984.

To date, the new commissioners have promulgated over fifty amendments to the federal sentencing guidelines, and Congress has without exception accepted all of the Commission's amendments. The Commission has set aggressive annual agendas and achieved significant results by creating new guidelines and modifying existing guidelines covering offenses such as:

- nuclear, chemical, and biological weapons offenses,
- terrorism,
- sexual offenses against children,
- human trafficking and peonage,
- stalking,
- intellectual property infringement,
- identity theft,
- counterfeiting,
- economic crimes and money laundering,
- illegal firearm sales and possession,
- illegal reentry,
- ecstasy trafficking,
- methamphetamine and amphetamine manufacturing, and
- cultural heritage resources.

The Commission worked diligently to clear the significant backlog of crime legislation created by previous vacancies on the Commission. This amendment cycle, we expect to submit to Congress amendments to the federal sentencing guidelines implementing new crime legislation and addressing such difficult areas as:

- terrorism,
- corporate fraud,
- oxycodone offenses,
- cybersecurity,
- involuntary manslaughter,
- campaign finance violations, and
- offenses involving the use of body armor.

The Commission will be unable to respond to the emergencies identified by Congress without the staff resources required. Sentencing guidelines must be carefully crafted to meet policy needs and to fit within our interlocking system. To accomplish what Congress expects, the Commission must be able to maintain its ability to respond quickly to emerging national priorities. The Commission is dedicated to continuing its important role in addressing national priorities such as terrorism and corporate crime, but our current resources limit our ability to respond to new information, acquire sophisticated expertise, and develop novel approaches.

For these reasons, the Commission requests an appropriation of \$13,200,000 for fiscal year 2004. This funding request for fiscal year 2004 represents a zero percent increase over the Commission's request for fiscal year 2003.

RESOURCES REQUESTED

The Commission's appropriation request for fiscal year 2004 is \$13,200,000, the same amount requested for fiscal year 2003. We understand increases are generally difficult to justify, particularly this year, but we need to develop the necessary staff expertise in areas of national importance such as terrorism and corporate crime. Staff resources have become increasingly taxed at the same time as we have re-

ceived increased requests for sentencing information from the Congress, the General Accounting Office, the federal Judiciary, the media, and other interested parties. We now must analyze an increased number of new case filings, develop ever more proposed guideline amendments each year, and fulfill other statutory duties to train and provide expertise on sentencing issues to the federal courts, Congress, and the Executive branch. The Commission respectfully urges Congress to appropriate \$13,200,000 in fiscal year 2004 to enable the Commission to keep pace with these significantly increased demands.

JUSTIFICATION

Sentencing Reform Act Requirements

The Commission was created under the Sentencing Reform Act of 1984 as a permanent, independent agency within the judicial branch. Congress gave the Commission a dual mission: (a) to establish and maintain a national guideline system for federal sentencing policies and practices; and (b) to serve as an expert agency and leading authority on federal sentencing matters.

In fulfilling these basic requirements, the Commission annually issues a sentencing guidelines manual that delineates penalty levels for all federal offenses. In addition to encompassing all federal offenses, the guidelines manual incorporates amendments approved by the Commission for newly enacted crime legislation passed by Congress. The guidelines manual is used by prosecutors, defense counsel, and probation officers in making sentencing recommendations to the courts. Federal district judges must use the guidelines manual when imposing a sentence, and it must also be relied upon by all federal appellate judges and the justices of the United States Supreme Court when reviewing the imposed penalties. Since the first manual went into effect on November 1, 1987, over half a million defendants have been sentenced under the guideline system.

Commission Response to the Threat of Terrorism and Corporate Crime

This appropriation request again grows out of the need to reestablish the staffing levels necessary to respond to emerging national priorities and to support a fully functioning Commission. The policy work of the Commission generally is determined by three sources: (1) legislative directives by Congress and new crime legislation; (2) resolution of conflicting interpretations of sentencing guidelines among the circuit courts of appeals; and (3) internal priorities that are set by the commissioners following an annual solicitation published in the Federal Register.

Due to the extended absence of voting commissioners in the late 1990s and a firm commitment on the part of the new Commission to respond quickly to congressional directives, the Commission has focused resources toward implementing crime legislation. Congress has called upon the Commission to implement crime legislation covering a wide range of disturbing criminal conduct, including sexual offenses against children, human trafficking and peonage, stalking, identity theft, ecstasy trafficking, methamphetamine and amphetamine manufacturing, and intellectual property infringement.

New laws passed by Congress to secure our nation from the threats of terrorism and to protect our workforce from economic disruption caused by corporate crime are perhaps the most important—and most complex—for the Commission to implement. In the area of terrorism, the Commission submitted to Congress a guideline amendment that significantly increased the penalties for offenses involving the importation and exportation of nuclear, biological, and chemical weapons on May 1, 2001, a full four months before the terrorist strikes of September 11th and subsequent nationwide anthrax attacks and threats. By utilizing our extensive datasets to review national security offenses, the Commission identified the inadequacy of existing penalties before concerns were widely shared.

Congress responded quickly to the threat of terrorism by passing the USA PATRIOT Act, Pub. L. 107–56, and the Commission responded in kind. In less than six months, the Commission promulgated a comprehensive package of amendments to the guidelines implementing the USA PATRIOT Act. Among the most significant of the provisions are appropriately severe penalties for offenses committed against mass transportation systems and interstate gas or hazardous liquid pipelines, increased sentences for threats that substantially disrupt governmental or business operations or result in costly cleanup measures, expanded guideline coverage for bioterrorism offenses, and a new guideline covering material support to foreign terrorist organizations.

This year Congress once again has called upon the Commission to implement terrorism related legislation. The Public Health Security and Bioterrorism Preparedness and Response Act of 2002, Pub. L. 107–188, and the Terrorist Bombings Con-

vention Implementation Act of 2002, Pub. L. 107-197 require the Commission to develop new guideline provisions to address protection of the nation's food and water supplies and to review the penalty structure for certain national security offenses, including nuclear, biological, and chemical weapons offenses.

In addition, the Homeland Security Act of 2002 (specifically section 225, the "Cyber Security Enhancement Act of 2002"), Pub. L. 107-296, requires the Commission implement new guideline provisions to punish appropriately and effectively deter crimes that undermine our nation's cybersecurity. Specifically, the Act requires the Commission on an expedited basis to develop guideline provisions that adequately account for eight enumerated factors, such as "whether the offense involved a computer used by the government in furtherance of national defense, national security, or the administration of justice," and "whether the violation was intended to, or had the effect of, significantly interfering with or disrupting a critical infrastructure."

The Commission is making progress toward implementing each of these new terrorism related legislative items. As the nation learns more about identifying terrorism related conduct, the Commission expects Congress will continue to respond with further legislation. The Commission needs to acquire additional staff expertise to meet its related responsibilities. For example, Congress has introduced legislation that would require significantly increased penalties for certain terrorism related offenses involving identity theft, the "Identity Theft Penalty Enhancement Act of 2003." This legislation already has passed the Senate Judiciary Committee and would require the Commission to evaluate how it would affect and interact with existing guideline provisions.

In April 2001, the Commission promulgated a multi-part amendment that made comprehensive changes to the guidelines covering economic crime. Economic offenses account for more than one quarter of all the cases sentenced in the United States federal district courts. The Commission had received from the federal Judiciary and the Department of Justice testimony and survey results that indicate that the sentences for these offenses were inadequate to punish appropriately defendants in cases in which the monetary loss was substantial. After a number of years of data collection, analyses, public comment, and public hearings, the Commission passed a comprehensive economic crime package that, among other things, provides significantly increased penalties for mid and high level fraud, theft, and tax offenses involving moderate and large monetary losses and significantly improved the operation of the money laundering guideline.

While the Commission's guideline amendment was pending before Congress, a number of corporate scandals became publicized. Congress responded swiftly by passing the Sarbanes-Oxley Act of 2002. The Act required the Commission to promulgate on an emergency basis several new guideline provisions relating to securities fraud, pension fraud, accounting fraud, and other more general types of fraud. Fortunately, the Commission was able to build upon expertise it had acquired developing the 2001 economic crime package, and in six months the Commission completed a multi-part amendment that increases penalties significantly for serious fraud offenses.

The emergency guideline, which became effective January 25, 2003, includes new sentencing enhancements for offenses involving more than 100 victims, substantially endangering the solvency and financial security of a publicly traded corporation or other organization with 1,000 or more employees, and securities fraud committed by officers or directors of publicly traded corporations. The Commission continues to address the problems and will submit for congressional review a permanent amendment by May 1, 2003.

New Opportunities in Fiscal Year 2004 in Corporate Crime and Native American Issues

Early in 2002 the Commission created two special panels of outside experts to study problems related to corporate crime and disparities encountered when Native Americans are sentenced in federal court under the Major Crimes Act. Each ad hoc group was given eighteen months to work on recommendations to the Commission, and each has been functioning effectively and has obtained public input into its work. Both groups will issue their reports in fiscal year 2004 which will be shared with the public. Then the Commission will need to work on possible amendments to Chapter 8 (the guidelines for sentencing organizations, including corporations, associations, municipalities, unions, etc.) and to guidelines particularly affecting Native Americans. While this method of gathering expert assistance has proven extremely cost effective, we need additional staff to draw out from a wealth of material the optimum proposals and to translate them into guidelines.

The corporate crime advisory group is comprised of sixteen nationally recognized experts drawn from government, private business, and academia, and is chaired by a former United States Attorney. The Commission has requested the expert committee to review the effectiveness of the criteria for an effective corporate compliance program and the deterrence of corporate crime. The advisory committee has actively engaged in research and soliciting public comment, including a day-long public hearing. The hearing covered many issues that bear directly on organizations' abilities and incentives to detect and report wrongdoing before it becomes widespread and institutionalized.

Congress also recognizes the critical role the organizational guidelines perform, and in the Sarbanes-Oxley Act directed the Commission to ensure that the guidelines that apply to organizations are sufficient to deter and punish organizational misconduct. Because the Commission had a jump start in this area and had already formed the advisory group, the expert panel will be able to report its findings and recommendations to the Commission in October 2003. At that time, the Commission expects to have a sound foundation for staff to help us deliberate and consider promulgation of appropriate modifications to the organizational guidelines during fiscal year 2004.

The formation of the Native American advisory group grew out of a hearing the Commission held in Rapid City, South Dakota in 2001. The Rapid City hearing focused on issues relating to Native Americans and was attended by a number of individuals who now serve on the advisory group. As a result of testimony at the hearing as well as public comment we received, the Commission formed the advisory group and requested that the group to report its findings during fiscal year 2004. The Commission is devoting additional staff resources to sentencing issues that particularly affect Native Americans. For example, the Commission has created a new sentencing guideline aimed at protecting our cultural heritage resources and other national treasures, has conducted several days of intensive training for prosecutors defense attorneys, and probation officers in Indian Country, and has begun to study federal crimes for which Native Americans comprise a significant proportion of offenders, such as manslaughter.

Additional Sentencing Priorities

Drug trafficking offenders continue to comprise the majority of the federal criminal caseload, and the Commission is constantly identifying and responding to new drugs of abuse. In recent years, the Commission has acted to increase penalties significantly for methamphetamine, amphetamine, ecstasy, and certain List I chemical offenses.

This amendment cycle the Commission is focusing on the increasing problem of oxycodone trafficking. Using its comprehensive sentencing database, the Commission recently identified a significant increase in the number of offenses involving the pain killer Oxycontin. The Commission currently is considering an amendment to the drug guideline that will recalibrate the way in which this drug is penalized so that the penalties for offenses involving oxycodone will be substantially increased. The Commission hopes that this increased penalty structure will help deter any further increase in the abuse of this drug and serve to punish appropriately those criminals who engage in its illegal trafficking.

The Commission also is aware that Congress may enact legislation directing it to review the guidelines pertaining to GHB, a drug that is often associated with date rape. Bills have been introduced both in the Senate and the House on this issue, and, if enacted, they would require the Commission to engage in a comprehensive review of the penalty structure for this particular drug during fiscal year 2004. The Commission also is aware of other drug related legislation that would require a response from us if enacted.

The Commission also is examining several guidelines covering offenses against persons and this work must be extended through fiscal year 2004. The 21st Century Department of Justice Appropriations Authorization Act, Pub. L. 107-273, for example, contains two directives to the Commission. The first directs the Commission to provide an appropriate sentencing enhancement for any crime of violence or drug trafficking crime in which the defendant used body armor. The Commission expects to submit an amendment to Congress by May 1, 2003, implementing this first directive. The second and more complicated directive requires the Commission to provide an appropriate sentencing enhancement for assaults against a federal judge and lists eight factors that the Commission must consider. The Commission expects that the Native American advisory group's review of the federal assault penalty structure will be helpful to implementation of this congressional directive during fiscal year 2004.

The Commission also is reviewing the guideline covering involuntary manslaughter after receiving congressional inquiries on the matter. The Commission currently is considering an amendment that would significantly increase the penalties for such offenses, but the Commission's work in the area of crimes against individuals will continue into fiscal year 2004. The overwhelming majority of offenders convicted of assaults or homicide at the federal level are Native Americans. As a result, the ad hoc committee also is examining the guidelines pertaining to manslaughter. Even though the Commission may make some change to the involuntary manslaughter guideline this amendment cycle, we likely will continue our work in the area of manslaughter until after receiving the report and recommendations from the Native American advisory committee during fiscal year 2004.

The Commission also has been very active in the area of sexual offenses. In every amendment cycle since the Commission was reconstituted in 1999, the Commission has promulgated new amendment provisions addressing various egregious sexual offenses. These many new guideline provisions provide severe punishment for such heinous crimes as human trafficking (in response to an emergency directive contained in the Victims of Trafficking and Violence Protection Act of 2000), sexual abuse of a minor, and commercial sex acts such as the production of child pornography and prostitution.

Sexual offenses involving children, however, continues to be of great concern, and the Commission is aware of several bills recently introduced in the 108th Congress that would require further action by the Commission. For example, the Senate recently overwhelming passed S. 151, the "PROTECT Act," which creates several new offenses relating to "virtual" child pornography and contains several directives to the Commission. The directives, among other things, would require the Commission to incorporate the new virtual child pornography offense into the sentencing guidelines and revisit guideline treatment of offenses involving interstate travel to engage in illegal sexual acts with children. If S. 151 or other similar bills are enacted, the Commission will be required to devote significant resources toward implementing those provisions during fiscal year 2004.

Ongoing Research and Analysis Obligations

In fiscal year 2004, as part of its ongoing mission the Commission will continue to work on several studies reflecting the operation of the guidelines since their inception. In conjunction with these studies, the Commission began a comprehensive assessment of the guidelines pertaining to drug offenses, which comprise a majority of the cases sentenced under the guidelines. In May 2002, the Commission issued a comprehensive 112 page report to Congress examining the current federal penalty structure for crack cocaine and powder cocaine offenses. The report contained concrete recommendations for Congress to consider regarding statutory and guideline penalties for cocaine offenses which I presented at a hearing before the Senate Judiciary Subcommittee on Crime and Drugs on May 22, 2002.

The report on federal cocaine sentencing policy was informed by an intensive project which involved analyzing the court documents for 1,600 cocaine offense cases sentenced in fiscal year 2000—representing approximately 20 percent of all federal cocaine offenses that year. The Commission analyzed important variables such as the offender's function in the offense, the geographic scope of the offense, and the presence of aggravating factors such as possession, brandishment, or use of a weapon, bodily injury, sales to protected persons such as minors, and sales in protected locations such as areas surrounding schools and playgrounds.

The Commission currently is collecting similar data with respect to other major drugs of abuse, such as methamphetamine, heroin, and marijuana. This process entails gathering information on the offense conduct and offender characteristics for over 3,000 federal drug trafficking offenders. This analysis is continuing through fiscal year 2004 and provide information on the organizational structure of drug trafficking operations and assist in the evaluation of the sentencing structure for these offenses.

The Commission has also undertaken the most comprehensive study of recidivism rates for federal offenders. The Commission is tracking more than 6,000 federal offenders through the criminal justice system to determine who becomes a repeat offender and what factors may be predictive of such behavior. The results will assist in evaluating the established criminal history categories and the role of the guidelines in deterring crime. While encouraged by the progress made on the project, full access to arrest and conviction records to complete the work only recently occurred when Congress authorized access by the Commission to a National Crime Information Center terminal under the 21st Century Department of Justice Appropriations Act. The Commission expects both the recidivism study and the consideration of any

modifications to the guidelines in response to its findings to continue through fiscal year 2004.

Commission Struggles with Increasing Caseload

A key component to the Commission's ability to implement legislation and develop new guideline provisions is its comprehensive, computerized data collection system. This comprehensive database serves as a clearinghouse of federal sentencing information and forms the basis for the Commission's monitoring and evaluating the guidelines, undertaking many of its research projects, and responding to hundreds of data requests received from Congress and other criminal justice entities each year.

For each case sentenced under the guidelines, the Commission enters over 200 items of information into its database, such as each count of conviction, the number and nature of victims, the magnitude of economic loss, the type and quantity of drugs, and the number and type of weapons. The Commission is only funded and physically equipped to process some 40,000 cases annually, but for each of the last four years it has received well over 50,000 cases annually. We expect to receive 63,000 cases in fiscal year 2003, and our resources do not permit timely processing of the extensive information. We plan to experiment with an electronic file transfer system to enable the 94 federal districts to submit five major court documents (the Judgment and Commitment Order, the Presentence Report, the Indictment, the Plea Agreement, and the Statement of Reasons) to the Commission in a paperless manner, thereby improving efficiencies and lessening delays, but this system will require substantial start up costs.

Additionally, the Commission performs case processing for organizational/corporate sentences, appellate cases, and probation revocation/supervised release violations. The Commission also has received requests that additional coding modules be added to analyze Rule 35 sentencings and plea bargaining, which we could undertake only with additional funding.

Increased Training Needs for Larger Federal Criminal Justice System

Over the last several years, as Congress has devoted increased resources to law enforcement, the number of federal judges, prosecutors, probation officers, and defense attorneys who require training and assistance on how to use the guidelines has increased proportionately. The Sentencing Reform Act requires the Commission to provide guideline training, in part because training promotes uniformity in guideline application and thereby reduces sentencing disparity—both central goals of the Act.

Commission staff provides training on the sentencing guidelines to more than 2,500 individuals annually at approximately 50 training programs across the country, including ongoing programs sponsored by the Commission, the Federal Judicial Center, the Department of Justice, the American Bar Association, and other criminal justice entities. Each year the Commission cosponsors a National Sentencing Seminar to train hundreds of probation officers, prosecutors, and defense attorneys on guideline application. New personnel often have no knowledge of the federal guidelines system, and seasoned personnel need training in the new guidelines promulgated each year. The program is so popular that we must turn away people due to the high volume of interest.

The Commission also plays a major role preparing for and participating in the biennial National Sentencing Institute sponsored by the Federal Judicial Center and attended by a large number of federal judges. The Commission also maintains a telephone HelpLine service to answer guideline application inquiries from federal judges, probation officers, prosecuting and defense attorneys, and law clerks. However, if the Commission is not provided sufficient funding to restore personnel in other areas of the agency, its quality of training will suffer because its training staff may be diverted to other projects.

SUMMATION

The Commission has worked very hard with limited resources to respond when called upon to help the President and Congress address emerging national priorities such as the threat of terrorism and corporate fraud. In many ways these are novel complex areas that require the Commission to acquire and maintain additional in-house expertise. Moreover, Congress and the Commission continue to identify new areas of concern that require substantial resources, such as oxycodone offenses, involuntary manslaughter, and sexual offenses against children. We cannot undertake a policy agenda of any real significance without enhancing our staff power, particularly given the large increase in the number of cases sentenced each year which require compilation and analysis.

The requested funding level would enable the Commission to continue its work in areas of national importance, enhance staff expertise, provide training to a rapidly expanding audience, process its surging caseload effectively, continue its monitoring and research of the guidelines, and continue to be responsive to the concerns of the federal criminal justice community.

PREPARED STATEMENT OF HALDANE ROBERT MAYER, CHIEF JUDGE, U.S. COURT OF APPEALS FOR THE FEDERAL CIRCUIT

Mr. Chairman, I am pleased to submit my statement to the Committee for the United States Court of Appeals for the Federal Circuit's fiscal year 2004 budget request.

Our 2004 budget request totals \$22,422,000. This is an increase of \$2,227,000 over the fiscal year 2003 approved appropriation of \$20,195,000. Twenty-nine percent (29 percent) of the requested increase, \$646,000, is for mandatory, uncontrollable increases in costs. The remaining increase of \$1,581,000 is for funding of additional positions and other program increases.

Request for Program Increases

A total of \$1,581,000 for program increases is requested. The breakdown and further justification for each amount follows. The justifications for the program increases are separated into four categories: staffing; courtroom renovations; technology advancements; and security staffing enhancements.

A portion of this program increase request, \$653,000, was requested to cover the cost of thirteen (13) additional Court Security Officers (CSOs) for fiscal year 2004. These additional CSOs were requested and needed to bring our total CSOs up to current U.S. Marshal Service Standards. This requested increase, however, was included in the recently enacted Supplemental Appropriation Bill. This amount will enable us to begin the recruiting and hiring process in fiscal year 2003.

Two New Staff Positions

The court requests \$208,000 to cover the cost of two new positions for nine (9) months in fiscal year 2004. The positions requested are for a Deputy to the Circuit Executive position (\$130,000) and a Computer Security Specialist (\$78,000).

The position of Deputy to the Circuit Executive has become necessary to assist the Circuit Executive with the variety of duties assigned to that office. The Deputy would assist in overseeing the offices that operate under the direction of the Circuit Executive and would act in the absence of the Circuit Executive.

We also request funding to hire a full-time permanent Computer Security Specialist. Upon completion of a formal security review and assessment of the court's electronic information system, the National Security Agency in August 2000 concluded that the court should hire an Information Technology Specialist. This person would monitor and protect the security of the court's information system. The Computer Security Specialist would ensure that all electronic communications and information in judges' chambers and staff offices are protected and secure from compromise or unlawful release. Both of these positions were requested in our fiscal year 2003 budget request and denied.

Courtroom Renovations

The court is requesting \$170,000 to begin the long-overdue renovations of courtrooms to bring them up to 21st Century security and technology standards to benefit judges, attorneys, and litigants. There have been no upgrades to the courtrooms, with the exception of new carpet, since the opening of the courthouse in 1967.

We have requested funding for this project in our 2001, 2002, and 2003 budget requests. We have taken our request to GSA as suggested by the Subcommittee. At this time, GSA has indicated that they are taking every appropriate action to have this project included in their fiscal years 2004 and 2005 budgets. Should the court be successful in receiving funding through GSA to pay for the renovations of the courtroom Congress will be notified that this request for \$170,000 is no longer necessary.

Improvements in the Court's Courtroom and Courthouse Computer Technology and Security

We request \$490,000 for program advancements in the area of technology in the courtrooms, judges' chambers, and staff offices.

The Judicial Conference of the United States recognized that courtroom technologies are a necessary and integral part of courtrooms. Based on those findings and the fact that the Administrative Office of the United States Courts (AO) cur-

rently is implementing this program in courts across the country, the court is requesting funding to upgrade the courtroom technology in one of its courtrooms. The figure of \$215,000 was provided to the court by the AO based on its experience to date with upgrading courtrooms. Not only would this benefit the Judiciary and the court, it would benefit counsel and litigants. One phase of this new technology will give counsel the opportunity to argue a case offsite while connected to the courtroom as if the attorney were in the courthouse, thus cutting expenses for the litigant.

We also request \$205,000 to develop and augment a disaster recovery plan for the court's electronic data system. In the event of a major disaster, it will be necessary to access the court's computer network from a remote site as well as locally. This amount is a one-time cost estimate to put this recovery system in place.

The National Security Agency performed a study of court security in 2000 and recommended improved computer security hardware and software to assist in the detection and prevention of electronic computer attacks and intrusions to the court's computer network. The cost of upgrading the security of the court's computer system is \$70,000.

Increased Security Position

This court requests \$60,000 to cover the cost of hiring one (1) Supervisory Level on-site Deputy U.S. Marshal.

The court requests funding to hire one (1) full-time Supervisory Level Deputy U.S. Marshal Inspector to coordinate facilities security at the National Courts Building based on this same need for upgraded security. The Inspector will report to the Chief Judge, will ensure that protection of judges on and off-site is properly coordinated, will supervise the court security officers assigned to the National Courts Building, and will work with the court security committee on matters involving staff and courthouse security.

Currently the Federal Circuit shares a Deputy U.S. Marshal with the United States Court of Appeals for the District of Columbia Circuit and the United States District Court for the District of Columbia. The shared U.S. Deputy Marshal is assigned to the U.S. District Court for the District of Columbia and is located at the District of Columbia Circuit courthouse. It is a daunting task and a big assignment for one person to cover adequately the security needs of two separate courthouses and four separate courts located in different parts of the District of Columbia.

In a March 7, 2003 memorandum to Chief Judges of the U.S. Courts, AO Director L. Ralph Mecham emphasized the importance of having a full-time Deputy U.S. Marshal Inspector assigned to each court. "It seems clear," Director Mecham said, "that in today's high risk environment there should be USMS personnel at the local level assigned to security responsibilities on a full-time basis." As the only United States Court of Appeals with national jurisdiction, the Federal Circuit should be given the same consideration in the assignment of security personnel as the twelve other regional circuits. Indeed, it is hard to understand how the USMS can assign a Deputy U.S. Marshal Inspector to the District of Columbia Circuit—a regional court of appeals—and direct that Inspector to provide security to the Federal Circuit—a national court of appeals located across from The White House—on an as-needed basis.

I also would like to address a statement that was contained in the Conference Report for our 2003 budget request. That document contained language referring to a reduction in the number of filings at the Federal Circuit between 1992 and 2001. Our figures show that total case filings for the Federal Circuit for the ten-year period did drop 219 cases from 1,702 in fiscal year 1992 to 1,483 in fiscal year 2001. That drop is consistent with the statement contained in the Conference Report. However, the reduction in the court's caseload does not justify a reduction in staff for two reasons.

First, starting with the 1,702 cases in 1992—which represented at that time the second highest number of annual case filings since 1982—the number of total cases filed each subsequent year through 2001 sometimes increased and sometimes decreased and occasionally exceeded 1,702. In fiscal year 2002, the Federal Circuit's total filings increased to 1,748; this is the third highest number of filings ever for the Federal Circuit—nearly 18 percent higher than the 2001 filings and 3 percent higher than the 1992 filings.

The second reason why the reduction of 219 case filings over the ten-year period does not justify a reduction in court staff is that the reduction does not reflect an important change in the court's workload. In short, it ignores how particular categories of cases have increased or decreased. Attention to the number of appeals in patent cases from district courts is critical when assessing the court's workload. Patent cases typically involve complex science and engineering principles, as well as multiple issues dealing with patent validity, infringement, defenses, counterclaims,

and damages. In addition, the patent cases often have lengthy trial records and extensive damages. In sum, patent appeals typically take much more time than, for example, the court's Merit Systems Protection Board (MSPB) cases. Hence, even though case filings went down by 219 when comparing 1992 to 2001, appeals from district courts—almost all of which are patent cases—went up from 315 in 1992 (about 18.5 percent of the total cases), to 403 in 2001 (about 27 percent of the total cases). At the same time, the much easier MSPB cases dropped from 789 in fiscal 1992, to 421 in fiscal 2001. And in fiscal 2002, when total cases increased nearly 18 percent from 2001, district court cases increased 19 percent, to 480, while MSPB cases rose only 3 percent, to 435.

The significant rise over the last 10 years in the number of patent infringement cases filed with the court and the nearly 18 percent increase in the court's annual filings from 2001 to 2002 warrant an increase—not a decrease—in court staff. Further, a careful review of the number of support personnel assigned to the Federal Circuit will establish that the staff numbers are considerably smaller than other courts of appeals.

I would be pleased, Mr. Chairman, to answer any questions the Committee may have or to meet with the Committee members or staff about our budget requests. Thank you.

NONDEPARTMENTAL WITNESSES

PREPARED STATEMENT OF THE AMERICAN BAR ASSOCIATION

The American Bar Association is centrally concerned with promoting improvements in the administration of justice and preserving the independence of the judiciary as fundamental to a free society. In furtherance of these two objectives, we are submitting this statement to address the need for increased compensation for Article III judges and to urge Congress to appropriate adequate funds for the State Justice Institute. We respectfully request that this statement be incorporated into the Subcommittee's record of hearings on fiscal year 2004 appropriations for Commerce, Justice and State, the Judiciary and Related Agencies.

STATE JUSTICE INSTITUTE

In 1984, Congress created the State Justice Institute (SJI) as a federally funded, private, non-profit corporation to award federal grants to improve the quality of justice in state courts, facilitate better coordination between state and federal courts, and foster innovative, efficient solutions to common problems faced by all courts. It is the only source of federal funding exclusively dedicated to helping to meet the needs of our state courts, which hear over 97 percent of the nation's cases. Since it became operational in 1987, the SJI has parlayed a modest amount of federal money into court improvement projects that benefit the nation's judicial system in its entirety and the public it serves. On behalf of the Association's 410,000 members, we can unequivocally say that the overwhelming consensus in the legal community is that the SJI effectively, efficiently and consistently executes its mandate despite a de minimis annual budget, which has never exceeded \$13.55 million.

In creating the State Justice Institute, Congress recognized that our state and federal courts are separate but interdependent and that the quality of justice in this nation depends on the vitality of both court systems. Concluding that the federal government has a stake in maintaining strong state judicial systems and improving state-court partnerships, Congress created SJI to monitor the state judicial system, assist in prioritizing the needs of the state courts and award small federal grants to foster solutions to critical problems confronting the courts. To enable all courts to benefit from federally funded projects, Congress required SJI to maximize the impact of each grant—even those that provide technical assistance to a court with a specific problem—through a variety of techniques, such as maintaining readily accessible information clearinghouses to assure that effective new approaches are shared with courts nationwide, convening national conferences to address emerging justice system issues, and placing practical products into the hands of judges and court personnel who can most benefit from them. These various strategies have proven effective in maximizing the benefits derived from each spent federal dollar and avoiding wasteful duplication of effort to solve identical or similar judicial administration problems.

After 15 years of SJI's operation, and out of a renewed concern for fiscal restraint in a time of competing budgetary demands, Congress requested that the Attorney General of the United States evaluate and report back on the effectiveness of the SJI. In November 2002, the Attorney General submitted his report to Congress in

which he concluded that SJI effectively implements its mission with only minimal administrative costs. Moreover, the Attorney General reaffirmed the wisdom of the 98th Congress by validating the premise on which SJI was created. He noted that an important Federal purpose was served by supporting SJI's mission to improve the quality of justice in state courts, observing that, "given overlapping state-federal jurisdiction, it is in the Federal government's interest to have effective and fair state courts, lest litigants turn to Federal courts to resolve matters properly within state court responsibilities."

The American Bar Association concurs with these core findings. By strengthening our state courts, SJI grants strengthen our entire justice system. Furthermore, we would like to point out that the federal government also has a direct interest in the vitality of our state courts because many important federal programs depend on state courts for their implementation.

Subsequent Congresses, including this one, have in fact acknowledged the appropriateness of providing federal assistance to state court projects by regularly appropriating funds for specific state court improvement projects sponsored by individual members. In fact, the funds spent on these projects often have exceeded the maximum appropriation SJI has ever received. While we do not doubt that such funds have been expended for worthy state court projects that have improved the administration of justice in a particular jurisdiction or state, we do not believe that it is a cost-efficient or effective way to provide federal financial support to strengthen our state judicial system. In contrast, disseminating federal funds through SJI assures that government money is spent on finding solutions to the most pressing judicial administration problems and sharing these solutions with every state and federal court.

The conference report accompanying Pub. L. No. 108-7 appropriated \$3.1 million in funding for SJI for fiscal year 2003 but contained the proviso that SJI should obtain future funding from "bar associations and the States, who are the beneficiaries of SJI's work." Such a proposal is unrealistic and would effectively terminate this highly effective program.

The courts are an integral part of our democratic system of government. Their support should come from the public fisc. SJI was created to provide federal support for needed improvements to supplement state court resources, which are often inadequate because of strapped state budgets. Bar associations and other grantee organizations, in essence, already contribute their own funds to SJI by absorbing some of the cost of any grant activity in which they are involved. Furthermore, SJI relies on the dedication and expertise of organizations, such as the ABA, to develop and implement programs that will strengthen the justice system; and in return, SJI pays for a substantial portion of the cost of worthy programs, while grantees provide a certain amount of matching funds. In this way, SJI grants not only require a sharing of the financial burden, but they also help forge essential public-private partnerships to address justice system issues.

In addition, the ABA and other bar associations already make substantial financial (in addition to other) contributions to promote excellence in the justice system by annually allocating a significant amount of their general revenues for judicial system improvements. For example, in fiscal year 2004, the ABA alone will spend almost \$2.5 million on such programs and projects.

In conclusion, terminating funding for the only government-funded entity exclusively dedicated to providing federal grants for projects to improve state courts makes no sense, especially at a time when our courts are facing a nation-wide fiscal crisis. Congress has a strong federal interest in strengthening the state courts and maintaining a robust justice system as well as a responsibility to implement sound fiscal policies. To deny the small sum of \$13.5 million to a program that is supported by every state supreme court and highly praised by the legal community, but authorize appropriations for projects that primarily benefit individual state courts, represents a serious fiscal miscalculation. For all these reasons, the ABA urges Congress to preserve SJI as a federally funded institute and to appropriate sufficient funds for fiscal year 2004 for SJI to carry out its mandate. The ABA recommends an appropriation of \$13.5 million—the amount that SJI received in 1996.

Article III Judicial Salaries

The 108th Congress has inherited a federal salary system for top-level government officials that is badly in need of reform. This is particularly true with respect to the Federal Judiciary.

The National Commission on the Public Service (otherwise known as the "Volcker Commission") concurs with this assessment. Composed of government leaders from past Administrations, the non-partisan Commission recently issued its report, *Urgent Business for America: Revitalizing the Federal government for the 21st Cen-*

tury, which concluded that “[j]udicial salaries are the most egregious example of the failure of federal compensation policies.” It recommended that Congress take immediate steps to substantially raise federal judicial pay.

During the past decade in particular, judges have experienced both an absolute loss in purchasing power and a relative decline in remuneration as the salaries of peer group members have risen dramatically. Despite five salary adjustments since 1993, judges have suffered a 10.9 percent decline in the purchasing power of their salaries. That judicial pay has not even kept pace with inflation has robbed judges of the prospect of salary stability during their tenure on the bench.

Judges freely acknowledge that rendering public service in a highly visible and respected role and serving in a lifetime appointment are intangible benefits that help compensate for the reduced salary levels associated with the bench. Nonetheless, compensation levels for attorneys from other work sectors are relevant to the issue of fair and adequate judicial compensation.

While the vast majority of federal judges have the requisite years of experience and legal skills that would enable them to command compensation similar to that paid to top-notch, seasoned attorneys in the private sphere (\$400,000 to \$800,000 according to the most recent surveys conducted by the National Law Journal), it is obviously not practical to suggest that Federal judges should be paid that much. The salaries of leaders of academia or nonprofit institutions are considered more reasonable points of reference because the level of education and expertise required of leaders of these institutions and the psychic satisfaction derived from holding such jobs are comparable to those of Federal judges.

Associate Justice Stephen Breyer, in testimony submitted to the Volcker Commission, stated that the average salary of nonprofit CEOs is \$212,000—approximately 20 percent higher than that of a Supreme Court Justice and about 35 percent higher than that of a federal district judge. Further, the differential between federal judicial salaries and salaries of leaders in the academic world is even larger: the average salary for deans of the twenty-five law schools ranked highest in the annual U.S. News and World Report survey was \$301,639 and the average base salary for full professors at those law schools was \$209,571.

Even though market conditions alone should not be the measure of the adequacy of judicial salaries, the widening disparity between judicial salaries and those of attorneys with comparable skills employed in the private sphere is causing demonstrable harm to our nation’s Third Branch by deterring excellent candidates from seeking judicial appointments and motivating sitting judges to resign prematurely from office to enter a more lucrative field.

Between 1990 and 2003, 77 Article III judges resigned or retired from the Federal bench and many of them returned to private practice. Fifty-one of the 77 departed judges entered the private practice of law and 14 others accepted jobs in related fields. Sixteen of the 77 judges departed before reaching retirement age, thereby forfeiting their right to salary for life. Premature departures from the bench impose both real and intangible costs upon the Third Branch, by compromising judicial independence fostered by life tenure and depriving the Federal Judiciary of the skills of some of its most capable and experienced jurists.

Inadequate judicial salaries also disadvantage the Federal Judiciary in the “war for talent.” Judicial pay may not be a deterrent to individuals who are independently wealthy or who are already in public service, where salaries are generally lower, but it is a strong disincentive for lawyers in private practice whose varied experiences bring a perspective and independence that is vital to the judiciary. Our analysis of the occupations held immediately prior to the confirmation of all district and circuit court judges appointed since 1977 supports this conclusion. For example, during President Carter’s term of office, 49.5 percent of his district court appointees came from the public sector, while 57.6 percent of President Bush’s district court appointees through the 107th Congress have come from the public sector.

White House Counsel Alberto Gonzales made this same point in an interview published in the May 2002 edition of *The Third Branch*:

“We are aware of both young lawyers with family obligations and established prominent lawyers with substantial investment in their practice and community who feel that they cannot afford to go on the federal bench. The Judiciary suffers when it cannot attract top tier lawyers for whatever reason.”

The Federal Judiciary benefits from the collective wealth of experience of its jurists who have served in different capacities in the public and private sectors. It is enriched by their diverse backgrounds and better able to serve the need of all Americans. We cannot afford to lose the diversity of the bench that comes from the appointment of individuals of varying financial means who have served in different capacities in both the public and private sectors.

In conclusion, while we recognize that there is a compelling need for salary reform within all top levels of government, we believe that there is an urgent and immediate need to substantially increase judicial salaries in order to maintain a stellar judiciary and protect one of the pillars of our democracy—Federal judicial independence. We urge you to support an appropriation for the Federal Judiciary that is sufficient to cover a substantial pay raise for all Article III judges.

PREPARED STATEMENT OF THE AMERICAN SPORTFISHING ASSOCIATION

The American Sportfishing Association (ASA) recommends the following as the Subcommittee considers appropriations for the National Marine Fisheries Service (NMFS) for fiscal year 2004. The American Sportfishing Association is a non-profit trade association whose 555 members include fishing tackle manufacturers, sport fishing retailers, boat builders, state fish and wildlife agencies, and the outdoor media.

The ASA makes these recommendations on the basis of briefings with agency staff and from years of experience with fisheries management in this Nation. It is important to note that sportfishing provides \$116 billion in economic output to the economy of the United States each year. Sportfishing in marine waters alone provides a \$31 billion impact each year to coastal states.

Saltwater fishing is the fastest growing sector of recreational fishing. Because of this the ASA urges NMFS to continue the pursuit of sound management of marine fish stocks by supporting the Regional Fishery Management Councils, the States, and the Interstate Marine Fisheries Commissions. Collectively, these programs conduct research and collect data that is essential for managers to appropriately maintain marine stocks and assure that areas are open to anglers. For the Regional Fishery Management Councils to carry out the regulations of the Magnuson-Stevens Fisheries Conservation and Management Act they must be properly funded. The Association recommends funding the Regional Councils activities at the \$16.032 million level.

The Association supports the fiscal year 2004 President's request for a \$3.0 million increase in funds for fisheries stock assessment and improvement of data collection, but also recommends an additional \$21.2 million with the goal of funding stock assessment at the \$100 million level by fiscal year 2008.

The ASA requests a total of \$12.8 million for Fish Statistics—Economics and Social Science Research. These would include:

- An increase in base funding for NOAA Fisheries could create a premiere Center for Excellence in Recreational Fisheries Economics. The Center could be housed in NOAA Fisheries and could provide the umbrella for recreational fisheries data collection and economic analysis conducted within NOAA Fisheries and by academia under contract. The Center will serve three primary functions: (1) strategic planning for data collection and analysis; (2) development and application of analytical techniques for measuring the costs, benefits, and impacts of recreational fisheries management; and (3) improved outreach and information sharing to ensure that both fisheries managers and the public receive and understand the data products. The Center will work in concert with and complement the existing NOAA Fisheries recreational fisheries economics program and the Marine Recreational Fisheries Statistics Survey (MRFSS) program. The ASA recommends a \$500,000 increase in base funding in fisheries statistics for the Center.
- The Association urges Congress to appropriate an additional \$9.5 million in new base funding for fisheries statistics to significantly improve catch and effort data through the NOAA Fisheries' Marine Recreational Fisheries Statistics Survey (MRFSS). Base funding has not increased substantially since the survey's inception in 1979. Improved data collection is central to achieving the rebuilding and management standards called for in the Sustainable Fisheries Act.
- The ASA recommends Congress increase base funding by \$2.8 million for the NOAA Fisheries recreational economics program. This program within NOAA Fisheries is severely understaffed and under-funded. The most basic recreational fishery data is unavailable making NOAA Fisheries unable to fulfill their congressionally mandated requirements to provide the basic data for recreational fisheries management. This additional funding should go directly towards outfitting new Centers with PhD level recreational fisheries economists, improving data collection and conducting expenditure surveys, and conducting critical research.

The Association urges congress to appropriate \$10 million for the Atlantic Coastal Fisheries Cooperative Management Act which allows government, state agencies,

and interstate marine fishery commissions to work together in support of fisheries resources. These efforts have showed success in stripped bass and weakfish management, and it's continued success relies on this level of funding.

Fish habitat restoration programs would be more cost-effective and successful if partnered under a State-Federal cooperative program undertaking research and management of fish habitat. ASA is pleased with the Administration's budget of \$13.22 million for fish habitat restoration. Furthermore, we support the continuation of the Charleston Bump Billfish Tagging program that serves as an important fish nursery for Atlantic Highly Migratory Fish species (AHMF).

Providing a complete database of information on high priority species aids in identification, protection and restoration efforts of exploited fish along the Atlantic, Gulf and Pacific coasts. The SEAMAP program builds this database and partners with another program, the MARFIN program, and together they work to support fishery independent research on high priority species. ASA is concerned about the erosion of these partnerships and recommends funding for the SEAMAP program at \$6 million and the MARFIN program also at \$6 million (\$4 million for the Southeast and \$2 million for the Northeast).

The American Sportfishing Association is very concerned with the low level of funding for the Anadromous Fisheries Act. Continual declines in funding means the needs of most anadromous fish stocks will not be met because funding cannot be supported through other federal and state funds or the fisheries management community. Therefore, the Association urges Congress to fund the Anadromous Fisheries Act grants to States at \$8 million.

The ASA is again disappointed in the level of funding for the Saltonstall-Kennedy grant program. This program promotes and develops fisheries by funding high priority research and development needs. ASA urges the Administration to restore this program to the fiscal year 1999 level of \$11.171 million.

The ASA agrees with the Administration's request to ensure NMFS' vessels are in good condition for proper management and research needs. These vessels are chartered privately by universities and states, and thus their condition is important to the safety of their users.

Concluding with our NMFS recommendations we would also like to comment on some of the other line items in NOAA's budget.

ASA urges Congress to recognize critical marine resources issues and how funding efforts can play a large role in developing new technologies. These efforts are stronger with the ability of a coalition of federal and state scientists for these critical issues. Two important efforts taking place at the Hollings Marine Laboratory (HML) and the Fish Cooperative Institute, does important work on marine environmental health, biotechnology, and ecotoxicology. The Association is pleased with the Administration's request to fund the HML at \$2.5 million and the Fish Cooperative Institute at \$750,000.

The past few years have encountered a large breakout of algal blooms resulting in bad *pfisteria* seasons. In response to this, effort to research and control the problem was largely taken on by the South Carolina Harmful Algal Bloom Task Force and was funded by the government. The Administration has proposed to terminate this program and the ASA urges Congress to continue funding this program at \$600,000 to continue the work on the outbreak of algal blooms.

Two of the most successful state-federal cooperative efforts to improve the quality of our natural resources are the National Estuarine Research Reserve (NERR) and Coastal Zone Management (CZM) programs. The American Sportfishing Association is pleased with the proposed \$16.4 million for NERR and the \$10.012 million for research facilities at NERR sites. In addition, we are very pleased with the many efforts of these programs ranging from public access to non-point source pollution. The ASA also supports the Administration's request for \$85 million for the CZM grants to help states and local communities work to improve coastal areas.

The Coastal Services Center makes valuable contributions toward stewardship and provides support to the coastal states in regards to advanced coastal decision support systems. This program has yielded innovative work in conjunction with state participation and the ASA urges funding at the \$18 million level.

One important task of NOAA is to be able to access and treat damaged marine resources caused by releases of hazardous substances. The Damage Assessment and Restoration Program (DARP) directs these efforts and takes on the responsibility of restoring these damaged areas as quickly as possible to reduce the amount of loss of fisheries and marine habitats. The Association strongly supports the President's request for \$17.199 million for damage assessment activities and restoration efforts of DARP.

The Sea Grant College Program provides critical research and educational opportunities for maintenance and improvement of marine resources. The Association rec-

ommends funding at the authorized level of \$73 million and we also disagree with the proposed moving of the program to the National Science Foundation. NOAA is more efficient at connecting the researchers and their findings to the marine community.

Finally, Mr. Chairman, the ASA is concerned about NMFS' promotion and use of marine reserves to the exclusion of other proven management options. This has penalized recreational anglers and is far from a proven management tool for marine resources. Public closures should be the last management option, not the first. Furthermore, NMFS has prepared no standardized implementation guidelines, no conservation goals, or long term monitoring plans for the use of marine reserves. The ASA requests that funding for the planning and implementation of any future marine reserves be halted until management guidelines, such as those outlined in the Freedom To Fish legislation, are put in place.

Mr. Chairman, please make these recommendations part of the record for the Subcommittee's 2004 appropriations process.

PREPARED STATEMENT OF THE DORIS DAY ANIMAL LEAGUE

Mr. Chairman and members of the Appropriations Subcommittee on Commerce, Justice, State and Judiciary, thank you for the opportunity to submit testimony on behalf of the 300,000 members and supporters of the Doris Day Animal League requesting that the Federal Bureau of Investigation assign the crime of animal cruelty its own classification in the Uniform Crime Reporting Program.

The Significance of Animal Cruelty as a Crime: "The Violence Connection"

Animal cruelty, especially egregious acts, was once viewed as an offensive behavior unrelated to other crimes. Now it is recognized as a serious crime with important implications for human society. A growing body of research, produced over the last thirty years, establishes a clear link between animal abuse and human violence. One comprehensive study of data from a twenty-year period found that adults convicted of animal were more likely than their peers to engage in other forms of criminal activities, including violent crimes against humans, property crimes, and drug and disorderly offenses. Other studies conducted in a number of counties in the United States confirm the overlap between committing acts of animal cruelty and engaging in other types of criminal behavior. In addition to the association between animal cruelty and criminal behavior, there is also evidence that the severity of violence against animals can indicate the degree of aggressiveness toward human individuals. Research on incarcerated adult males demonstrated that the most aggressive inmates had the most violent histories of animal cruelty. It is worth noting that in dangerous situations such as a hostage taking, the FBI has included a history of animal cruelty among the factors used to determine an individual's threat level.

Another important link between animal abuse and human violence, with important policy implications, is the co-occurrence of family violence and animal abuse. In interview studies with domestic violence victims, between 54–71 percent of the women report that their partners also harmed or killed the family pet. Child abuse and animal abuse also are linked: animal abuse was confirmed in 88 percent of families under the supervision of a child welfare agency for physically abusing their children.

In addition to being linked to other types of criminal activity and family violence, animal abuse by children signals an important warning. The Federal Bureau of Investigation was one of the first to recognize the significance of juvenile animal cruelty when it reported that many serial killers had abused animals as children. It also has been reported that many of the school shooters had engaged in various forms of animal cruelty. The National Crime Prevention Council, the Department of Education, and the American Psychological Association all list animal cruelty as one of the indicators or warning signs of future violence. Furthermore, researchers agree that persistent aggressive behavior in childhood, termed "conduct disorder," tends to be fairly stable trait throughout life and is the single best predictor of later criminal behavior. Animal cruelty is one of the symptoms for a diagnosis of conduct disorder and therefore can be one of the earliest indicators that a child is at risk.

Not all children who abuse animals will become serial killers, school shooters, or criminals as adults. However, research clearly suggests that engaging in childhood animal cruelty conditions an individual to accept, or engage in, interpersonal violence as an adult.

Responses to "The Violence Connection"

Government bodies, professional organizations, and communities have responded to information about the animal abuse-human violence connection. For example, be-

fore 1990, only seven states had felony provisions in their animal anti-cruelty statutes; now 41 states and the District of Columbia have felony-level laws. As of this date, 24 states have provisions in their animal anti-cruelty statutes that permit or mandate psychological counseling for offenders.

In addition to changes in state animal cruelty statutes, awareness of the significance of animal abuse as a crime has resulted in the development of a number of programs. "Safe Pet" programs, in which the pets of domestic violence victims are provided safekeeping so that women feel free to leave dangerous situations, are being instituted in communities throughout the United States. Animal control officers are being trained to "cross report," that is, to look for signs of child and spousal abuse when investigating an animal abuse or neglect complaint. Intervention programs for children and adults who abuse animals have been developed and mental health professionals are being trained in this area of treatment.

Modifying the Reporting Categories of the Uniform Crime Reporting Program

The Uniform Crime Reporting (UCR) Program is a nationwide effort in which crime statistics are collected from nearly 17,000 city, county, and state law enforcement agencies. During 2000, the participating agencies represented 94 percent of the total U.S. population. The current UCR Program classifies offenses in two groups, Part I and Part II. Crimes vary from criminal homicide in Part I to vagrancy and curfew and loitering laws in Part II. Not only law enforcement, but also criminologists, sociologists, legislators, municipal planners, the media, and others interested in criminal justice use the statistics for research and planning purposes. However, under the current UCR Program, there is no category to report crimes of animal cruelty, even though animal abuse often is an indicator of other types of criminal behavior, including family violence.

Assigning the crime of animal cruelty to its own classification would have a number of advantages. Law enforcement agencies, researchers, policy planners, and others would be better able to understand the factors associated with animal abuse, track trends at the state and national level, and determine demographic characteristics associated with animal abuse—all of which would assist in promoting more effective intervention and prevention strategies to interrupt the cycle of violence. Finally, assigning animal cruelty its own category would assist law enforcement agencies by helping them identify and track individuals with histories of violence.

Proposed Report Language for the Senate Subcommittee on Commerce, Justice, State and Judiciary Appropriations

We respectfully request that the Subcommittee consider the following report language for the Commerce, Justice, State and Judiciary Appropriations bill:

"The Committee commends the Federal Bureau of Investigation (FBI) for its successful Uniform Crime Reporting (UCR) Program. Currently, there is no individual category for animal cruelty in the UCR Program even though animal cruelty is a crime in all states, certain acts of animal cruelty are felonies in 41 and the District of Columbia, and it is linked to other types of crime, including family violence. Therefore, there is no way to systematically track such cases. The current practice is to rely on the limited ability of local animal control agencies to monitor animal cruelty cases or literally check local court records. Given the current arrangement, state and national trends are impossible to identify.

"The Committee directs the FBI to provide the necessary resources to assign the crime of animal cruelty its own classification in the UCR Program by adding this category to its software and other reporting mechanisms. This will enable law enforcement agencies and researchers to track trends and better understand factors associated with committing animal abuse, allowing more effective interventions. Additionally, individuals who are more likely to commit other serious crimes could be identified.

"The Committee further directs the FBI to provide a report to the Committee by December 2003 on the integration of this category into its UCR Program."

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PREPARED STATEMENT OF THE UNIVERSITY CORPORATION FOR ATMOSPHERIC RESEARCH

On behalf of the University Corporation for Atmospheric Research (UCAR) and the university community involved in weather and climate research and related education, training and support activities, I submit this written testimony for the record of the U.S. Senate Committee on Appropriations, Subcommittee on Commerce, Justice, State and the Judiciary. This testimony pertains to the fiscal year 2004 budget request for the National Oceanic and Atmospheric Administration (NOAA). UCAR is a consortium of 66 universities that manages and operates the National Center for Atmospheric Research (NCAR) and additional atmospheric and related sciences programs. In addition to its member universities, UCAR has formal relationships with approximately 100 additional undergraduate and graduate schools including several historically black and minority-serving institutions, and 40 international universities and laboratories. The National Science Foundation (NSF) and other federal agencies, including NOAA, support UCAR.

INTRODUCTION

As one of the world's foremost scientific and environmental agencies, NOAA has responded to the needs of the nation in designing its budget and program to protect citizens, the environment and the economy. Last year the NOAA leadership conducted a nationwide program review, asking for input from NOAA's many stakeholders. Those responses are reflected in the subsequent strategic plan, "New Priorities for the 21st Century." We applaud the NOAA leadership for its vision, and urge the Committee to support the critical, evolving work of this agency. Within the NOAA fiscal year 2004 budget request, I would like to comment on the following offices and programs:

Office of Oceanic and Atmospheric Research (OAR)

The OAR supports a network of scientists and environmental research laboratories in order to provide the sound science upon which decision makers can frame effective regulations to solve environmental problems and upon which economic growth can be managed in an environmentally sound manner. The President's request for OAR overall is down 2 percent from the fiscal year 2003 final appropriation. However, since the fiscal year 2004 request, which preceded the fiscal year 2003 final numbers, was based on the fiscal year 2003 request and reflected a major increase for OAR, we believe that the Administration is demonstrating strong commitment to the work of OAR. Therefore, I ask the Committee to provide OAR with a five percent increase and fund the Office at \$384.0 million in fiscal year 2004.

U.S. Weather Research Program (USWRP).—USWRP is an interagency program that is dedicated to making forecasts of high-impact weather more specific, accurate, and reliable, thereby saving lives and property, and helping regional economies. I urge the Committee to support the fiscal year 2004 request of \$4.0 million for the USWRP Base and \$1.3 million for THORPEX, an international program focused on extending weather predictability from the current 7 days to two weeks and double

the rate of improvements in forecast skill by 2012, and to support the request of \$7.3 million for the High Impact Weather Program component of the USWRP.

U.S. Weather Research Program—Collaborations Fund.—Through the Office of Oceanic and Atmospheric Research (OAR) and the National Weather Service (NWS), NOAA bears a great responsibility for advancing the nation's weather research and the application of that research to improve weather forecasts and warnings. The best way to accomplish this is to form working alliances, or partnerships, between the scientific expertise that exists within NOAA and the country's broad expertise within the university and private sector communities. Competitive proposals and a peer review process through the establishment of a Collaborations Fund would ensure that the best research results and technologies are achieved for the resources available. I urge the Committee to establish the USWRP Collaborations Fund with a new allocation of \$20 million in NOAA's Office of Oceanic and Atmospheric Research, in order to leverage the research and research applications expertise of this country toward accelerated implementation of the USWRP goals.

Climate and Global Change Program.—The climate variability predictions provided by the Climate and Global Change Program are absolutely critical to related national and international policy formulation and to efforts to adapt to and mitigate the effects of long-term climate change. The Program is an integral part of the inter-agency U.S. Global Change Research Program (USGCRP) that is the major U.S. contributor to the world's understanding of the global climate system. The President's request for this program is \$73.0 million, down 2.3 percent from the fiscal year 2003 final appropriation. I urge the Committee to provide the Climate and Global Change Program \$74.7 million at the very least, the level at which this program is funded for fiscal year 2003.

Phased-Array Radar.—NOAA requests \$1 million to develop new technologies for forecasting and detecting tornadoes and other forms of severe weather and to disseminate this information to emergency managers, the media, and the general public for appropriate action. This initiative will provide the meteorological research community with the first dedicated phased-array radar facility to collect real-time data around the clock. When fully implemented, tornado warning lead times could be doubled from 11 to a life-saving 22 minutes. I urge the Committee to support the \$1 million request for the Phased-Array Radar.

Climate Observations and Services Program.—I urge the Committee to fund the \$55.3 million fiscal year 2004 request for Climate Observations and Services. A robust observing system is perhaps the most critical tool for the development of more accurate weather and climate models. The increase for this program will build the climate observing system required to support the research, modeling, and decision support activities for the Administration's Climate Change Research Initiative (CCRI). I further urge the Committee to support the President's fiscal year 2004 request of \$42.0 million for CCRI, our nation's key research contribution to the global issue of climate and environmental change.

Laboratories and Joint Institutes

The 12 NOAA Research Laboratories, located across the country with field stations around the world, conduct an integrated program of fundamental research, technology development, and services to improve understanding of the Earth and its oceans and inland waters, the lower and upper atmosphere, and the space environment. The Laboratories have established formal collaborative agreements with universities and non-profit research institutions to form 11 Joint Institutes to study the earth's oceans, inland waters, intermountain west, atmosphere, arctic, and solar-terrestrial environment. I would like to comment on the fiscal year 2004 request for the following laboratories:

Forecast Systems Laboratory (FSL).—The fiscal year 2004 request terminates the nation's Wind Profiler Network, 35 stations that provide hourly wind profiles from the ground to 53,000 feet to operational weather forecasters and weather models. These data provide invaluable support in the forecasting of tornadoes, winter storms and flash floods. I strongly urge the Committee to restore \$4.1 million for the Wind Profiler Network and to thereby fund the Forecast Systems Laboratory \$11.5 million for fiscal year 2004.

Boulder Facilities Operations.—Six of the 12 NOAA Research Laboratories, one NESDIS Data Center, one of OAR's 11 Joint Institutes, and the Denver Forecast Office of the National Weather Service (NWS) are all housed in Boulder at the David Skaggs Research Center. The fiscal year 2003 Omnibus Bill eliminated rent, maintenance, utility, and security charges assessed by the General Services Administration for this building. It is critical that the Committee support Boulder Facilities Operations at \$4.5 million as requested for fiscal year 2004.

Adjustments to Base.—Failure to fund unavoidable increases to the base budget, such as inflationary costs, changes in costs for salaries, and good and services, can have a significant impact on the operations of an agency, and affect productivity over time when those increases have to be funded out of research programs. I urge the Committee to restore the \$4.5 million that was cut from Adjustments to Base in the fiscal year 2003 Omnibus Bill, thereby increasing the fiscal year 2004 request to \$10.0 million.

Space Environment Center (SEC).—The SEC is the national and world warning center for disturbances that can affect people and equipment working in the space environment. It provides real-time monitoring and forecasting of solar and geophysical events, conducts research in solar-terrestrial physics, and develops techniques for forecasting solar and geophysical disturbances. SEC's Space Weather Operations Center is jointly operated with the U.S. Air Force because DOD's smart weapons' accuracies, as well as the ability of ships, planes and special forces units to fix their positions using GPS, are adversely affected by space weather events. The fiscal year 2004 Omnibus Bill cut the SEC by \$2.25 million, an amount that seems to have been restored in the fiscal year 2004 request. I urge the Committee to fund the fiscal year 2004 request of \$8.3 million for the Space Environment Center.

National Weather Service (NWS)

As the nation's vulnerability to weather related hazards rises because of increasing population, enhanced infrastructure, and population movement toward cities in threatened regions such as coastal areas, the NWS strives to mitigate impacts through improved forecasts and warning systems for the protection of life and property. There are few agency programs that impact our daily lives and the health of our economy as profoundly as does the NWS. I urge the Committee to support the fiscal year 2004 NWS overall request of \$820 million. Within NWS, I would like to comment on the following programs:

NWS Adjustments to Base.—As the largest and most labor-intensive service within NOAA—70 percent of its budget dedicated to labor—the NWS depends on full funding of personnel cost increases in order to sustain current service levels. In the past, reductions in ATBs resulted in cutbacks in NWS research grants and forecaster training programs. It is critical that the Committee support the \$20.1 million to fund adjustments to base.

NOAA Center for Weather and Climate Prediction.—The Department of Commerce, the State of Maryland, and academic community advisors have all agreed on a shared vision to build a Center of Excellence for Environmental Research, Education, Applications and Operations in order to meet NOAA operational requirements to create research synergy in weather and climate prediction; to accelerate transition of new science and technology into operations; and to enhance recruitment opportunities. I ask that the Committee support the request of \$10.4 million for this new state-of-the-art facility.

Advanced Hydrologic Prediction System (AHPS).—Seventy-five percent of all Presidential Disaster Declarations involve flood damages. AHPS will provide emergency managers with critical data with which to save lives and property, manage energy and water resources more efficiently, and enable a more rapid infusion of scientific advances into the system. Within the NWS Operations, Research, and Facilities account, I urge the Committee to support the fiscal year 2004 request of \$6.1 million.

Aviation Weather.—Weather is the cause of approximately 200 U.S. general aviation pilot fatalities per year and over 70 percent of U.S. commercial airline delays that result in tremendous cost to customers and companies. The Aviation Weather program increases the number of aviation weather observations; transitions research into operations more efficiently; and develops and implements new training programs for forecasters, pilots, and air traffic controllers. I urge the Committee to support the NWS Aviation Weather initiative at the requested \$2.5 million for fiscal year 2004.

NWS Weather and Climate Supercomputing and Backup (Systems Acquisition).—The critical nature of the separate request for NWS supercomputing backup cannot be exaggerated. The NWS forecast computing capabilities are located at a single facility which means that the nation's severe weather watches and warnings all emanate from one location that could fail for a number of reasons including faulty technology, power supply problems, or terrorism. The redundancy, provided by supercomputing backup, covers those risks and is a critical component of the Department of Commerce Homeland Security Initiative. When not in emergency use, the backup provides needed computing time for weather and climate research. I urge the Committee to support the fiscal year 2004 request of \$19.3 million for NWS Weather and Climate Supercomputing and \$7.2 million to implement the backup computer system.

Radiosonde Replacement Network.—There is little doubt that the obsolete infrastructure for this principle data source on upper air for all weather forecasts and models will fail by 2005 if it does not receive adequate modernization funding now. I urge the Committee to support the fiscal year 2004 request of \$6.9 million for the Radiosonde Replacement Network in the NWS Procurement, Acquisition and Construction (PAC) account.

Advanced Weather Interactive Processing System (AWIPS).—This interactive computer system integrates all meteorological and hydrological data, and all satellite and radar data. AWIPS is a fundamental source of data for the research community and, when combined with NEXRAD radar, it enables the NWS to issue far more effective weather warnings and forecasts for the entire country. In the NWS Operations, Research and Facilities (ORF) account, I urge the Committee to support the fiscal year 2004 proposed amount of \$37.6 million for AWIPS. In the NWS Procurement, Acquisition and Construction (PAC) account, I urge the Committee to fund AWIPS at the \$16.3 million request at least, an amount level with fiscal year 2003.

Cooperative Observer Network.—The network's 11,000 weather observation sites are used to maintain the country's climate record and to provide data to NWS local field offices and to university laboratories. I urge the Committee to support the request of \$1.9 million, the same as the fiscal year 2003 enacted level, for Cooperative Observer Network maintenance.

Central Forecast Guidance.—The NWS Central Forecast Guidance line provides most of the funding for the National Centers for Environmental Prediction (NCEP), nine centers within the NWS that all work together toward the common goal of using data for weather predictions and seasonal forecasts in order to save lives, protect property, and create economic opportunity. Forecasts that reach the public via media outlets originate at NCEP. In recent years, the centers have not been supported adequately to process weather data and transfer it into operations. In order to address this problem, I urge the Committee to support the fiscal year 2004 request of \$45.1 million, a 3.7 percent increase over the fiscal year 2003 enacted level.

National Environmental Satellite, Data and Information Service (NESDIS)

NESDIS operates this country's space-based component of the global environment observing system, and manages the world's largest collection of atmospheric, geophysical, and oceanographic data representing 85 percent of the data used by the NWS for forecasting activities. Society depends on NESDIS for data that affect numerous activities including distributing energy supplies, maintaining satellite communications, developing global food supplies, increasing aviation safety, managing natural resources, protecting citizens from natural hazards, and transporting our nation's armed forces. I urge the Committee to support the fiscal year 2004 request of \$91.2 million for NESDIS Environmental Satellite Observing Systems, an increase of \$5 million over the fiscal year 2003 enacted level.

The rich data collected by the NESDIS satellite systems are acquired, processed, analyzed, archived and disseminated through the Data Information Management Systems to commerce, industry, agriculture, science and engineering, the general public, and government at all levels. While the Satellite Systems function collects data, the Data Centers and Information Services function makes those data useful and available, so I am disturbed to see that the data management function is recommended for a \$5.3 million decrease. An increase in funding for the observing systems that collect data obviously should be coupled with an increase in funding for the management systems that make the collected data useful and accessible. I urge the Committee to appropriate, at the very least, \$5.3 million above the request in order to restore the NESDIS Data Centers and Information Services to the fiscal year 2003 enacted level of \$64.4 million in fiscal year 2004.

Educational Partnership Program with Minority Serving Institutions

Under-representation of minorities in earth science disciplines in this country is a serious issue that must be addressed by multiple programs across multiple agencies and institutions. I urge the Committee to support the \$15.0 million request for NOAA's Educational Partnership Program with Minority Serving Institutions.

On behalf of the UCAR community, I want to thank the Committee for the important work you do for U.S. scientific research, infrastructure, education, and training. We understand and appreciate that the nation is undergoing significant budget pressures at this time, but a strong nation in the future depends on the investments we make in science and technology today. We appreciate your attention to the recommendations of our community concerning the fiscal year 2004 budget of the National Oceanic and Atmospheric Administration.

PREPARED STATEMENT OF THE NATIONAL FEDERATION OF COMMUNITY BROADCASTERS

Thank you for the opportunity to submit testimony to this Subcommittee regarding the appropriation for the Public Telecommunications Facilities Program (PTFP). As the President and CEO of the National Federation of Community Broadcasters, I speak on behalf of over 200 community radio stations and related organizations across the country. This includes the new Low Power FM service that has recently been authorized by the FCC. NFCB is the sole national organization representing this group of stations, which provide service in both the smallest communities and largest metropolitan areas of this country. Nearly half of our members are rural stations, and half are minority controlled stations.

In summary, the points we wish to make to this Subcommittee are that NFCB:

- Supports funding for PTFP that will cover the on-going needs of public radio and television stations.
- Supports funding for conversion of public radio and television to digital broadcasting.
- Requests report language to ensure that PTFP utilizes any digital funds it receives for radio as well as television needs.

Community radio supports \$70 million in funding for the Public Telecommunications Facilities Program in fiscal year 2004.—Federal support distributed through the PTFP is essential to continuing and expanding the public broadcasting service throughout the United States. It is particularly critical for rural stations and for those stations serving minority communities. PTFP funds new stations, expanding the reach of public broadcasting to rural areas and to audiences that are not presently served by existing stations. In addition, it replaces obsolete and worn out equipment so that the existing stations can continue to broadcast high quality programming. Finally, with the advent of digital broadcasting, PTFP funding will help with the conversion to this new technology.

We support \$70 million in funding to ensure that both the on-going program—currently funded in fiscal year 2003 at \$43.4 million—will be continued, and that the increase to \$70 million will be available to help cover the cost of radio and television converting to digital transmission. This increase in funding is particularly urgent this year because the FCC has now endorsed a standard for digital radio broadcasting and the television conversion deadline is imminent.

Federal funding is particularly critical to stations serving rural and underserved audiences which have limited potential for fundraising because of sparse populations, limited number of local businesses, and low income levels. Even so, PTFP funding is a matching program so that the federal money is leveraged with a local commitment of funds. This program is a strong motivating factor in raising the significant money necessary to replace, upgrade and purchase expensive broadcast equipment.

Community radio supports funding for conversion to digital broadcasting for public radio and television.—While public television's digital conversion needs are more immediate, the Federal Communications Commission has now approved a standard for digital radio transmission. The initial conversion of radio stations is being concentrated in 13 seed markets. The Corporation for Public Broadcasting (CPB) is using some of its previously appropriated digital funds to help public stations in these markets convert to digital, conduct additional research on AM radio conversion, and work with radio receiver manufacturers to build in the capacity to receive a 2nd audio channel. The development of 2nd audio channels will potentially double the public service that public radio can provide, particularly to unserved and underserved communities. This initial funding from CPB will only help a small number of the stations that will ultimately need to either convert or be left behind while the world goes digital.

We appreciate Congress' direction to the Corporation for Public Broadcasting that it utilize its digital conversion fund for both radio and television and ask that you ensure that the PTFP funds are used for both media. Congress stated, with regard to the fiscal year 2000 digital conversion funds:

The required (digital) conversion will impose enormous costs on both individual stations and the public broadcasting system as a whole. Because television and radio infrastructures are closely linked, the conversion of television to digital will create immediate costs not only for television, but also for public radio stations (emphasis added). Therefore, the Committee has included \$15,000,000 to assist radio stations and television stations in the conversion to digitization . . . (S. Rpt. 105–300)

NFCB requests that the funding for digital conversion be committed in advance to facilitate the orderly transition of a very individualized process—a process that will be different at each station. Advance funding will give the system time to raise

the substantial matching funds that will be necessary and to know what additional funds will be needed to complete the process.

Thank you for your consideration of our testimony.

PREPARED STATEMENT OF THE REGIONAL INFORMATION SHARING SYSTEMS (RISS) PROGRAM

The Regional Information Sharing Systems (RISS) Program respectfully requests that Congress appropriate for fiscal year 2004, \$50 million to continue their support in combating drug trafficking and organized crime.

These funds will enable RISS to continue identifying, targeting, prosecuting, and removing criminal conspirators involved in terrorism activity, drug trafficking, organized criminal activity, criminal gangs, and violent crime that span multijurisdictional boundaries. Funds will allow RISS to continue to support the investigation and prosecution efforts of over 6,300 local, state, and federal law enforcement member agencies across the nation comprising over 675,000 sworn law enforcement personnel.

Through funding from Congress, RISS has implemented and operates the only secure Web-based nationwide network—called *riss.net*—for communications and sharing of criminal intelligence by local, state, and federal law enforcement agencies. Funds will allow RISS to upgrade the technology infrastructure and resources to support increased use and reliance on the system by member law enforcement agencies and support the integration of other systems connected to *riss.net* for information sharing and communication. Using Virtual Private Network technology, the law enforcement users access the public Internet from their desktop and have a secure connection over the private *riss.net* intranet to all RISS criminal intelligence databases and resources. RISS member law enforcement agencies accessed *riss.net* an average of 3.9 million times per month during fiscal year 2002. *Riss.net* is a proven, highly effective system that improves the quality of criminal intelligence information available and puts it in the hands of the law enforcement officers to make key decisions at critical points in their investigation and prosecution efforts.

The Office of Justice Programs (OJP), Regional Information Sharing Systems (RISS) is a federally funded program comprised of six regional intelligence centers. The six centers provide criminal information exchange and other related operational support services to local, state, and federal law enforcement agencies located in all fifty states, the District of Columbia, U.S. territories, Canada, Australia, and England. These centers are:

Middle Atlantic-Great Lakes Organized Crime Law Enforcement Network (MAGLOCLLEN).—Delaware, District of Columbia, Indiana, Maryland, Michigan, Pennsylvania, Ohio, New Jersey, and New York, as well as Canada and England.

Mid-States Organized Crime Information Center (MOCIC).—Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin, as well as Canada.

New England State Police Information Network (NESPIN).—Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont, as well as Canada.

Regional Organized Crime Information Center (ROCIC).—Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia, as well as Puerto Rico and the U.S. Virgin Islands.

Rocky Mountain Information Network (RMIN).—Arizona, Colorado, Idaho, Montana, Nevada, New Mexico, Utah, and Wyoming, as well as Canada.

Western States Information Network (WSIN).—Alaska, California, Hawaii, Oregon, and Washington, as well as Canada, Guam, and Australia.

RISS is a crucial force in fighting terrorism, increased violent criminal activity by street gangs, drug traffickers, sophisticated cyber criminals, and emerging criminal groups that require a cooperative effort by local, state, and federal law enforcement. Interagency cooperation has proven to be the best method to combat the increasing criminal activity in these areas. The RISS Centers are filling law enforcement's need for rapid, but controlled sharing of information and intelligence pertaining to known or suspected drug traffickers and criminals. Congress funded the RISS Program to address this need as evidenced by its authorization in the Anti-Drug Abuse Act of 1988.

The success of RISS has been acknowledged and vigorously endorsed by the International Association of Chiefs of Police (IACP), as well as other national law enforcement groups such as the National Sheriff's Association (NSA) and the National Fraternal Order of Police (NFOP). These groups have seen the value of this congressional program to law enforcement nationally and have worked with the National

Association of Attorneys General (NAAG), the National District Attorneys Association (NDAA), and the National Criminal Justice Association (NCJA) to further strengthen the awareness of RISS.

RISS is operating current state-of-the-art technical capabilities and systems architecture that allow local, state, and federal law enforcement member agencies to interact electronically with one another in a secure environment. The RISS system has built-in accountability and security. The RISS secure intranet (riss.net) protects information through use of encryption, smart cards, Internet protocol security standards, and firewalls to prevent unauthorized access. The RISS system is governed by the operating principles and security and privacy standards of 28 CFR Part 23 (Criminal Intelligence Systems Operating Policies). The technical architecture adopted by RISS requires proper authorization to access information, but also provides flexibility in the levels of electronic access assigned to individual users based on security and need-to-know issues. Riss.net supports secure e-mail and is easily accessible using the Internet. This type system and architecture is referenced and recommended in the General Counterdrug Intelligence Plan (GCIP).

The RISS Program promotes federal, state, local, and tribal law enforcement information sharing. RISS is the mechanism that state and federal law enforcement agencies are using to leverage their resources and existing systems for sharing sensitive but unclassified information. RISS has entered into a partnership with the High Intensity Drug Trafficking Areas (HIDTA) to electronically connect all of the HIDTA's to riss.net for communications and information sharing. Currently, 15 HIDTA's are electronically connected as nodes to riss.net and RISS is working to complete the connection of the remaining HIDTA's. Nine state agencies are currently connected as nodes on riss.net. An additional 15 state law enforcement agencies are pending connection as nodes to share information, including terrorism and homeland security information, using riss.net.

The National Drug Intelligence Center (NDIC) is a member of RISS and uses the RISS network as a communications mechanism for publishing counterdrug intelligence products to federal, state, and local law enforcement members. RISS and the El Paso Intelligence Center (EPIC) officials entered into a partnership and have electronically connected EPIC as a node to riss.net to capture clandestine laboratory seizure data from RISS state and local law enforcement member agencies. RISS is currently working with the U.S. Department of the Interior, Bureau of Land Management (BLM), to connect all of the BLM offices to riss.net. Other systems connected to riss.net are the Law Enforcement Intelligence Unit (LEIU) and the National Drug Pointer Index (NDPIX). The National White Collar Crime Center (NW³C) and the Financial Crimes Enforcement Network (FinCEN) are currently pending connection to riss.net as nodes.

During 2002, officials of the FBI Law Enforcement Online (LEO) system and the RISS system achieved interconnection of the two systems for distribution of sensitive but unclassified homeland security information to authorized users of both LEO and RISS. In addition, the Executive Office of the United States Attorneys (EOUSA) and the RISS Centers initiated actions to connect staff to riss.net at each of the 93 U.S. Attorneys' Offices (USAO) Anti-Terrorism Task Forces throughout the United States.

RISS is also expanding its resources to deliver the RISS Anti-Terrorism Information Exchange (RISS ATIX) to provide access through riss.net to additional groups of users for secure interagency communication, information sharing, and dissemination of terrorist threat information. These additional groups of users, referred to as RISS ATIX participants, will include public service, public safety, emergency management, utility, and other critical infrastructure personnel that have traditionally not been served by RISS. RISS ATIX participants will be assigned restricted access to certain specific RISS services and resources as appropriate in consideration of their roles with regard to terrorism and disasters.

All of these above mentioned state and federal agencies are integrating with and using the riss.net secure nationwide communications backbone to share criminal intelligence and alerts and homeland security information within their own agencies and among the other agencies. RISS needs funds to purchase hardware and software to support these agency system connections to riss.net to continue to provide and improve access for sharing information for law enforcement agencies across the country. In addition, RISS has developed RISS ATIX to provide first responders and critical infrastructure personnel with a secure means via riss.net to communicate, share information, and receive terrorist threat information. RISS is operating an unprecedented nationwide network for communicating critical information in a secure environment to both law enforcement and other first responders. To support the increased needs of these personnel and continue to maintain the RISS system and de-

mand for RISS services and resources, RISS is requesting an increase in funding to \$50 million for 2004.

RISS continues to promote interagency investigations by improving capabilities for member agencies to quickly and easily access RISS databases and resources by expanding the enrollment of member agencies for access to riss.net through distribution of security hardware and software. In view of today's increasing demands on federal, state, and local law enforcement budgets, requests for RISS services have risen. The Institute for Intergovernmental Research (IIR) report on the RISS Program showed that as of December 31, 2002, the number of criminal subjects maintained in the RISSIntel intelligence databases for all Centers combined was 1,079,369 with 258,907 new subjects being added in 2002. The combined databases of all six RISS Centers also maintained data on 1,712,307 locations, vehicles, weapons, and telephone numbers for a grand total of 2,791,676 data entries available for search. For the twelve-month period January through December 2002, the total number of inquiries by law enforcement member agencies to the RISSIntel database for all six regional intelligence centers combined was 766,845. These inquiries resulted in hits or information to assist law enforcement agencies in their criminal cases. All RISS Centers combined delivered 19,777 analytical products to member agencies in support of their investigation and prosecution efforts in 2002.

This support of law enforcement has had a dramatic impact on the success of their investigations. Over the three-year period 2000–2002, RISS generated a return by member agencies that resulted in 10,024 arrests, seizure of narcotics valued at almost \$141 million, seizure of over \$13 million in currency, and recovery or seizure of property valued at over \$25 million. In addition, almost \$3 million was seized through RICO civil procedures. In the 22-year period since 1980 when the Program was fully implemented, the RISS Program has assisted its member agencies with their investigations. Results of these investigations have amounted to over \$12.7 billion dollars in recoveries at a total cost that approximates 2.72 percent of that amount, or a \$37 return for every dollar spent.

The Bureau of Justice Assistance administers the RISS Program and has established guidelines for provision of services to member agencies. The RISS regional intelligence centers are subject to oversight, monitoring, and auditing by the U.S. Congress, the General Accounting Office, a federally funded program evaluation office; the U.S. Department of Justice, Bureau of Justice Assistance; and local government units. The Intelligence Systems Policy Review Board also monitors the RISS Centers for 28 CFR Part 23 compliance.

It is respectfully requested that the Congress fully fund the RISS Program as a line item in the congressional budget, in the requested amount of \$50 million. Local and state law enforcement, who depend on the RISS Centers for information sharing, training, analytical support, funding, and technical assistance, are anticipating increased competition for decreasing budget resources. The state and local agencies require more, not less, funding to fight the nation's crime/drug problem.

We are grateful for this opportunity to provide the committee with this testimony and appreciate the support this committee has continuously provided to the RISS Program.

PREPARED STATEMENT OF THE OCEAN CONSERVANCY

The Ocean Conservancy (TOC) is pleased to share its views regarding the marine conservation programs in the budgets of the National Oceanic and Atmospheric Administration's (NOAA) and the Department of State's Bureau of Oceans and International Environmental and Scientific Affairs. TOC requests that this statement be included in the official record for the fiscal year 2004 Commerce, Justice, State, the Judiciary and Related Agencies bill. TOC cannot overstate the importance of this Subcommittee in advancing marine conservation and greatly appreciates the funding provided in fiscal year 2003. TOC recognizes the constraints this Subcommittee faces this year and urges you to continue to make ocean conservation a top priority.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Conservation Trust Fund

Passed by Congress in 2000, the Conservation Trust Fund (also referred to as the Conservation Spending Category) is a groundbreaking bipartisan accomplishment and represents a major advancement in conservation funding. TOC is grateful that this Subcommittee has upheld its commitment to funding the Conservation Trust Fund over the last three fiscal years and calls for your continued commitment in fiscal year 2004 by dedicating \$520 million for critical ocean and coastal conserva-

tion activities within NOAA. We also urge you to protect the integrity of the trust fund by limiting its uses for net increases rather than a substitute for base funding.

Coral Reef Conservation

NOAA plays a critical role in protecting coral reefs, serves on the successful Inter-agency Coral Reef Task Force and has major responsibilities for implementing the National Action Plan to Conserve Coral Reefs. Through monitoring, mapping, restoration and outreach activities, NOAA works with state, territory, local and other parties to reduce land-based pollution, overfishing, diseases, and other threats to coral reefs. TOC is disappointed that the Subcommittee cut funding for coral reefs in fiscal year 2003 and respectfully requests that at a minimum, funding be restored in fiscal year 2004. In addition, \$2 million above the Administration's request is desperately needed to support local efforts to protect coral reefs and should be directed to the Coral Reef Conservation Fund established by the Coral Reef Conservation Act of 2000 (Public Law 106-562). This funding will leverage an additional \$2 to \$4 million in matching resources through partnerships with local, state and territory governments, universities, the private sector and others to fund on-the-ground coral reef conservation and management activities in the United States and its territories. This funding is one of The Ocean Conservancy's highest priorities.

National Ocean Service

Marine Sanctuary Program

Our nation's 13 sanctuaries encompass almost 18,000 square miles of our most significant marine resources. TOC requests the Subcommittee provide \$37.8 million for sanctuary operations, \$2 million above the Administration's request. This increase is critical to reducing staffing shortages and supporting conservation, community outreach, research, and education programs, and updating sanctuary management plans as required by law. TOC also supports the Administration's request of \$10 million for construction, particularly for interpretive facilities to educate the general public about the role of the federal government in managing our nation's ocean and coastal resources.

Marine Protected Areas (MPAs)

TOC greatly appreciates this Subcommittee's \$1 million increase in fiscal year 2003 to support NOAA's MPAs initiative and requests an additional \$1 million increase in fiscal year 2004. This \$5 million will allow NOAA to work more effectively with federal and state agencies and other partners to acquire data for the ongoing MPA inventory and support the recently formed Marine Protected Areas Advisory Committee and its working groups. This increase will allow NOAA to better assist stakeholders, including states, the National Park Service and others by holding regional workshops and providing training and technical assistance to determine how best to design and implement MPAs.

Nonpoint Pollution Implementation Grants

Nonpoint source pollution continues to be the nation's largest source of water pollution. There were over 13,410 closings and advisories at U.S. beaches in the year 2001. TOC supports the Administration's fiscal year 2004 request of \$10 million to help coastal states and territories, with approved nonpoint plans, continue to make progress in implementing their priority activities.

National Marine Fisheries Service

The Ocean Conservancy remains concerned about the state of our nation's fisheries. As the \$100 million for fisheries disaster assistance in fiscal year 2003 demonstrates, we must do a better job managing our fisheries. Below is what TOC believes are NMFS's most pressing needs.

Expanding Fisheries Stock Assessments

The status of roughly two-thirds of our commercially caught ocean fish populations is unknown due in large part to lack of funding for basic research and regular stock assessments. We applaud the Subcommittee's decision to increase stock assessment funding to \$17 million in fiscal year 2003 and urge that this trend continues with \$25 million in fiscal year 2004. Doing so will help reduce the backlog in research days-at-sea and give managers baseline information critical to managing our fisheries. This funding is one of The Ocean Conservancy's highest priorities.

Fisheries Observers

Along with stock assessments, reliable, objective information about how many fish are being caught, directly and as bycatch, is crucial to responsible management of our fish populations. Observers are a key means of collecting such information. TOC

recommends \$25 million for fisheries observers in fiscal year 2004, \$5 million above the Administration's request and encourages the Subcommittee to prioritize the following three programs.

Bycatch Observers

TOC fully supports the Administration's \$2.8 million initiative to reduce bycatch. The \$2 million within this initiative for bycatch observers will support approximately 2,000 observer days-at-sea, thereby enhancing the collection of bycatch data from commercial and recreational fishing vessels. Two fisheries in the Gulf of Mexico in desperate need of increased observer coverage are the bottom longline fishery and the shrimp otter trawl fishery. Longlines capture a variety of ocean wildlife besides the reef fish they target, including marine birds, sea turtles and soft corals. The shrimp fishery is believed to be the largest fishery in the Gulf of Mexico, but efforts to monitor the effort and catch are limited. With revised turtle excluder device regulations going into effect in August, it is critical that an observer program be established.

National Observer Program

While encouraged by the Administration's request to expand the national observer program, TOC believes that \$7 million is still inadequate and recommends additional support for NMFS to meet its national observer needs.

West Coast Observers

TOC respectfully requests that the Subcommittee, at the minimum, return funding for West Coast Observers to the fiscal year 2002 level of \$4.0 million.

Enforcement/Surveillance and Vessel Monitoring System

In addition to better data, enforcement of our fishery management laws is critical. Unfortunately, lack of funding has hampered NMFS's ability to keep pace with the need. TOC urges \$46.9 million in fiscal year 2004 to address this shortfall so that more officers can be hired to better enforce our fisheries management laws. TOC supports expanding the Vessel Monitoring System (VMS) program. While we are pleased that the Subcommittee provided a slight increase in VMS in fiscal year 2003, we urge that the President's request of \$7.4 million be fully supported in fiscal year 2004.

Essential Fish Habitat (EFH)

Given the need to better understand the impacts of fishing and other activities on EFH, and the need to more fully comply with the Magnuson-Stevens Fishery Conservation and Management Act's requirement to minimize impacts to those habitats, TOC believes that increased funding is crucial and requests \$12.5 million in fiscal year 2004.

Atlantic Coast Cooperative Statistics Program

TOC greatly appreciates the Subcommittee's support of \$2 million in fiscal year 2003 for this unique cooperative state and federal fisheries data collection program. We request \$3 million in fiscal year 2004 so that this program can be expanded and better implemented along the East Coast, thereby helping to ensure that data collection methods are more consistent and reliable.

Highly Migratory Shark Fisheries Research Program

This effective multi-regional collaborative effort conducts research on shark and ray populations in the Gulf of Mexico, the Atlantic, and the Pacific. Information developed from this program has provided critical information for assessing the status of shark populations and informing better management. TOC greatly appreciates the Subcommittee's rejection of the Administration's proposed cut in fiscal year 2003 and requests at least level funding in fiscal year 2004.

Pacific Highly Migratory Species Research

TOC supports funding for this program, believes the Administration's request of \$750,000 is inadequate and requests \$1.5 million in fiscal year 2004. Specifically, funding is needed to conduct stock assessments and biological studies and improve bycatch mitigation techniques for these fisheries.

Marine Mammal Protection

TOC believes the lack of adequate resources has severely hampered NMFS's ability to effectively implement the MMPA and requests \$9.1 million in fiscal year 2004, \$2 million above the Administration's request. This increase is necessary to fund top priority studies identified by the take reduction teams: to design and implement fishery management plans that will not endanger marine mammals; conduct re-

search on population trends, health, and demographics; and to carry out education and enforcement programs. It would also allow research into the causes of strandings and die-offs and identification of mitigation measures to prevent such deaths in the future.

Bottlenose Dolphin Research

In response to the more than 100 bottlenose dolphin mortalities in the gillnet fishery off North Carolina (over four times allowable levels), the Atlantic Bottlenose Take Reduction Team was established in 2001. TOC recommends \$3 million in fiscal year 2004 to reduce dolphin mortalities by refining population estimates, conducting bycatch estimates and increasing observer coverage.

Endangered Species

NMFS bears significant responsibility for administering the Endangered Species Act and is responsible not only for the recovery of already-listed species such as Northern Atlantic Right Whales (see below), smalltooth sawfish, Steller sea lions, and all species of sea turtles found in U.S. waters, but also for responding to listing petitions in a timely fashion, consulting with federal agencies on proposed actions that may affect listed species, designating critical habitat, and implementing recovery plans. TOC is concerned about NMFS's ability to meet its responsibilities under the ESA and respectfully requests the Subcommittee increase NMFS's ESA base funding by \$2 million to meet its fiscal year 2004 demands.

North Atlantic Right Whales

With approximately only 300 North Atlantic Right Whales still alive, funding is needed to improve our understanding of right whales and to develop fishing technologies to reduce entanglements. TOC thanks the Subcommittee for its support of \$10 million in fiscal year 2003 and requests level funding in fiscal year 2004.

DEPARTMENT OF STATE

Bureau of Oceans and International Environmental and Scientific Affairs

International Fisheries Commission Account

TOC requests \$200,000 for the State Department to support implementation of two landmark agreements, the Inter-American Convention for the Protection and Conservation of Sea Turtles (IAC) and the Memorandum of Understanding on the Conservation and Management of Marine Turtles and their Habitats of the Indian Ocean and South East Asia (IO). To date, nine nations, including Brazil, Costa Rica, Ecuador, Honduras, Mexico, the Netherlands, Peru, and Venezuela have ratified the IAC. To date, 23 countries have signed the IO agreement. Since ratifying the IAC and becoming a signatory of the IO agreement in 2000, the United States has played a leading role in the establishment of these instruments and continued leadership and support will ensure their early momentum continues.

MARINE MAMMAL COMMISSION

TOC requests that the Subcommittee support the Marine Mammal Commission at \$1.895 million in fiscal year 2004, per the Administration's request.

ANTI-ENVIRONMENTAL RIDERS

TOC urges this Subcommittee to not attach any anti-environmental rider to this or any other appropriations bill. In the past, riders have been used by Members of Congress to rollback environmental protection and prevent NOAA from advancing marine conservation.

These programs and issues are of the utmost importance to the stewardship of the nation's living marine resources. We greatly appreciate your support for these programs in the past and look forward to continued, responsible funding for these programs in fiscal year 2004. Thank you for considering our requests.

PREPARED STATEMENT OF THE ASIA FOUNDATION

The importance and continuing relevance of the Asia Foundation's mission and mandate have been underscored by the events of September 11 and the war on terrorism: to develop institutions of governance, including constitutional frameworks, legislative branch and judiciary; support civil discourse and conflict resolution; expand economic opportunity to improve the quality of life and give more people a stake in stability; and promote better understanding between the United States and the countries of Asia.

The Asia Foundation is gratified by the confidence of the Congress in its programs, as demonstrated by an increased appropriation of \$10.44 million for fiscal year 2003, \$1 million above the Administration's request. While the Administration has endorsed the work of The Asia Foundation by requesting an appropriation of \$9.25 million for fiscal year 2004, the Foundation respectfully hopes that the Congress will once again add to its funding, given the unparalleled new challenges facing Asia and The Asia Foundation's distinctive capacity to address them. As the Subcommittee knows, The Asia Foundation implements concrete programs in Asia that improve governance and legal reform, protect human rights, promote economic reform and encourage peaceful, cooperative international relations.

In the face of growing anti-Americanism and the threats of rising extremism in countries with predominantly Muslim populations in Asia, where over 70 percent of the world's Muslims live, it is more important than ever to address the root causes of persistent poverty, lack of opportunity, and loss of faith in local leaders and institutions. These new circumstances in Asia highlight the importance and value of The Asia Foundation's programs. The Foundation is the only American organization with a distinctive history of fifty years of presence and engagement in Asia, especially in Afghanistan, Pakistan, and Indonesia, the front line states in the war on terrorism.

OVERVIEW

The United States and Asia both face new challenges, complicated by the war on terrorism, the war in Iraq and the instability likely to occur in its aftermath. More than ever, the United States must support political stability, and economic reform, and give attention to countries where recent events have exacerbated U.S. bilateral relations, in countries that have been traditional allies of the United States, as well as in the countries with predominantly Muslim populations in Asia. Working together with Asian organizations as a trusted partner through a network of 17 offices in Asia, The Asia Foundation is the only longstanding American nongovernmental, nonpartisan organization with local credibility, a nuanced understanding of the issues facing each country, and unparalleled access and relationships with government, nongovernmental groups, and the private sector. In addition to the importance of these programs in the lives of people of these countries, the Foundation's efforts also make an important and tangible contribution to public diplomacy for the United States.

THE ASIA FOUNDATION'S MISSION

The Asia Foundation's core objectives are central to U.S. interests in the Asia-Pacific region.

- Democracy, human rights and the rule of law: developing and strengthening democratic institutions and encouraging an active, informed and responsible non-governmental sector; advancing the rule of law; and building institutions to uphold and protect human rights, including women's rights and opportunity;
- Open Trade and Investment: supporting open trade, investment and economic reform at the regional and national levels;
- Peaceful and Stable Regional Relations: promoting U.S.-Asian dialogue on security, regional economic cooperation, law and human rights.

In the past, this Committee has encouraged the Foundation's grant making role, and we remain faithful to that mission. The Foundation's hallmark is to make sequential grants to steadily build and strengthen institutions, develop leadership, and advance policy reforms in Asia. Foundation assistance supports training, technical assistance, and seed funding for new, local organizations, all aimed at promoting reform, building Asian capacity, and strengthening U.S.-Asia relations. Foundation grantees can be found in every sector in Asia, leaders of government and industry and at the grass roots level, in the increasingly diverse civil society of Asia. The Foundation is distinctive in this role, not only providing the technical assistance necessary, as in the case of the drafting of the Afghan constitution, but also in providing grants that cover nuts and bolts necessities to support that effort, such as reference materials, equipment and administrative support costs for the Constitutional Commission. The Asia Foundation is a well recognized American organization, but its programs are grounded in Asia, helping to solve local problems in cooperation with Asian partners.

PROGRAMS

Examples of programs include:

- Legislative Development.*—The Foundation has contributed to the development of legislatures in 17 countries in Asia through technical assistance, training

members and staff and facilitating interaction with the nongovernmental sector. The Foundation is the only American organization providing legislative training on responsible legislative practice, and orientation for all four newly elected provincial assemblies in Pakistan. The Foundation is also the only American organization providing technical assistance to the Constitutional Commission in Afghanistan for the drafting of the new constitution, the public consultation and Constitutional Loya Jirga process.

- Civil Society*.—The Foundation is the single largest supporter of the nongovernmental sector in the Asian countries in which we operate. The Foundation builds the capacity of organizations, encourages public participation and works to improve the regulatory environment for NGOs. In Cambodia, the Foundation continues to be the largest supporter of human rights, environment and research and policy NGOs in Cambodia. The Foundation's Pakistan programs support community based organizations that provide educational services in areas where none exist, particularly in the economically distressed border areas of the Northwest Frontier Province (NWFP). The Foundation also supports new NGO activities in Afghanistan, such as ASCHIANA which provides education for girls and young women denied schooling under the Taliban through a cooperative project with the National Geographic Society.
- Human Rights, Conflict and Islam*.—The Foundation's human rights programs promote the protection and advancement of human rights through support of nongovernmental and governmental human rights efforts at the local, regional and national levels. The Foundation's programs focus on human rights education, the development of monitoring groups, forensic training to investigate past abuses, media training, guides on international human rights standards, conflict reporting for journalists, programs to prevent trafficking and violence against women and alternative dispute resolution programs in conflict areas. The Foundation's twenty year history of working with mainstream Muslim groups in Indonesia, Pakistan and Mindanao in the Philippines makes it uniquely positioned to encourage programs that promote moderate views, religious tolerance, peace, conflict management and the rights of women under Islam, including the use of Islamic scriptures to communicate messages of tolerance and non-violence. These innovative and sensitive programs can only be accomplished through an on the ground knowledge of the context facing mainstream Muslims, and through partnerships built on trust. The Foundation gives special attention to the troubled areas of Indonesia through support for local human rights efforts in Aceh, Papua and most recently, in the Maluku Islands. Programs include media campaigns through radio and television by moderate groups to promote pluralism and tolerance in conflict prone areas and the utilization of mosque youth networks to educate and strengthen networks for democracy and pluralistic Islam.
- Legal Reform*.—In East Timor, the Foundation provided technical assistance for the drafting of the constitution and new legislation, and for increased access to justice for citizens, by involving civil society and public consultation in the law making process. In China, the Foundation supports legal aid services and popular legal education in some of China's poorest provinces, including those with minority populations such as Yunnan and Xinjiang, and for millions of migrant women workers in Guangdong. In Nepal, the Foundation piloted mediation projects in western Nepal, areas under the heavy influence of the Maoist rebels, and continues to expand community mediation programs, legal reform within the courts, establishment of legal information systems, and the development of watchdog citizens' groups to raise awareness of corruption and misconduct. The Foundation supports reform of the Supreme Court in Indonesia, which has included civil society input in an unprecedented step to reform case assignment, audit its procedures and processes, and improve the quality of the judicial appointment process.
- Economic Growth and Opportunity*.—Small and medium enterprises are a vital engine for economic growth, providing employment and opportunity for millions throughout the region. The Foundation's programs help to reform the environment for small business growth in Indonesia, Bangladesh, Thailand, and Sri Lanka by removing policy barriers and regulatory red tape, reducing corruption, and providing a voice for small entrepreneurs through support for business associations and business-government dialogue. The Foundation funds efforts to improve corporate governance in Korea, China, Japan, and the Philippines.
- International Relations*.—The Foundation continues to invest in young leaders through diplomatic training programs in U.S. universities for Chinese foreign affairs staff, fellowships for Vietnamese and Indian diplomats, and study programs for Southeast Asian young leaders. Programs also include support for the

Council for Security Cooperation in the Asia Pacific (CSCAP), training programs for compliance with trade agreements and the WTO for Chinese and Vietnamese officials, and track II programs on cross-straits relations and Northeast Asian security.

CONCLUSION

As the preceding examples of The Asia Foundation's work emphasize, the Foundation is a field-based organization that supports projects in Asia that build the capacity of Asian institutions and support reform efforts, while at the same time maintaining close links with the U.S. foreign policy community. We are first and foremost a grant making organization. The Foundation has consistently received national recognition for its efficient grant-to-operating ratio, reflecting its commitment to maximizing the impact of its programs in Asia, while keeping expenses low. We are not a research organization or an academic institution, nor are we Washington based. We operate on the ground in Asia as an accepted, trusted partner and supporter of Asian reform efforts that simultaneously support and reinforce American political, economic, and security interests. We partner in our programs with American and international public and private organizations to leverage our resources and make investments pay off. The Foundation's partnership with the Microsoft Corporation on the Cambodian Information Centers, the first project of its kind to expand Internet and media resources to all 22 provinces of the country, is but one example.

Public funding is essential to the Foundation's mission. While the Foundation has made gains in expanding private funding, the flexibility and reliability that public funding lends to the Foundation's efforts are critical. As an organization committed to U.S. interests in Asia, we can only be successful if potential private donors understand that the U.S. government continues to support our efforts in the region. Furthermore, private funds are almost always tied to specific projects (as are USAID funds for which the Foundation competes) and do not replace public funding, either in scale or flexibility. Moreover, the flexibility afforded by U.S. government appropriated funds enables the Foundation to respond quickly to fast-breaking developments and program opportunities, as demonstrated by our programs related to the needs of the Ministry of Women's Affairs in Afghanistan in 2001 and the National Human Rights Commission office in Aceh, during the height of the violence in the conflict-prone province in 2002.

Budget constraints resulted in significant reductions in the Foundation's annual appropriation in 1996. The current requested level for fiscal year 2004 is still well below the Foundation's \$15 million annual appropriation during the decade prior to 1996. The \$15 million level has been authorized consistently by the Congressional authorizers in recent years. We have worked hard to manage our budget, reduce staff and expenditures, increase our efficiency, and diversify our funding sources. We have struggled to maintain our country office presence in Asia, although budget cuts did force closure of the Malaysia office in 1996.

But commitment to a field operation is not without risk, as seen in the situation facing U.S. embassies abroad. Now more than ever, the Foundation and its supporters believe that its critical and most important asset is its field office network in Asia, enabling the Foundation to address critical development and reform on the ground, especially in critical front line states such as Pakistan, Afghanistan, and Indonesia. Increased security measures to protect Foundation staff have been necessary, and Foundation offices all have contingency evacuation measures in place. Maintaining overseas offices costs more than maintaining operations within the United States and the new demands to ensure adequate security have added to this cost. Today, we face serious budgetary constraints. We cannot forsake the safety of our staff, but at the same time, we are, as always, committed to ensuring that the maximum possible amount of appropriated funds are dedicated to programs on the ground.

In closing, we believe that we have an opportunity and the obligation to demonstrate America's strong commitment to working with Asian leaders to assure the security and well being of the people of Asia. The Asia Foundation's programs represent a distinctive and positive American response to the challenges facing Asia today, contributing to the development of stable societies and advancing the interests of the United States in the region. At a time of rapid change and uncertainty, additional funding would enable the Foundation to expand its role and its programs to help meet these challenges.

PREPARED STATEMENT OF THE INVESTMENT COMPANY INSTITUTE

The Investment Company Institute¹ appreciates this opportunity to submit testimony to the Subcommittee in support of the fiscal year 2004 Appropriations request for the Securities and Exchange Commission (SEC). The Institute would like to commend the Subcommittee for its consistent past efforts to assure adequate resources for the SEC.

Mutual funds are one of the primary savings and investment vehicles for middle-income Americans. Today, more than 95 million investors in over 54 million U.S. households own mutual fund shares. Since 1990, the percentage of U.S. retirement assets held in mutual funds has more than quadrupled. Moreover, most mutual fund investors are ordinary Americans; the median household income of fund shareholders is approximately \$62,000. These millions of average Americans deserve continued vigilant regulatory oversight of mutual funds. For this reason, sufficient funding of the SEC should be a priority. The Institute urges Congress to provide appropriations at a level sufficient to ensure the SEC's ability to fulfill its regulatory mandate.

The Administration's fiscal year 2004 budget proposes SEC funding at a level of \$841.5 million. This greatly exceeds last year's appropriation of \$711.7 million. The Institute supports this enhanced level of funding to support the SEC's operations, especially those of the Division of Investment Management, which regulates the mutual fund industry. Such resources will help the SEC to carry out its many important initiatives, which include, among other things, adopting requirements for improved shareholder reports, analyzing the feasibility of requiring new compliance related rules for investment companies and investment advisers, finalizing rules to combat money laundering, and finalizing amendments to the mutual fund advertising rules.

The recommended enhanced level of funding also will permit the SEC to monitor compliance with the many significant new requirements adopted as a result of the Sarbanes-Oxley Act of 2002, which include, among others, disclosure regarding codes of ethics for senior executive officers and the presence of financial experts on audit committees, certification of financial and other information, independence standards for public company auditors, and standards of conduct for corporate attorneys. Moreover, it will permit the SEC to fulfill its mandate to oversee the operation of the Public Company Accounting Oversight Board (PCAOB), including the ratification of fundamental rules and procedures for the PCAOB. We also are pleased that H.R. 658/S. 496, "The Accountant, Compliance, and Enforcement Staffing Act of 2003," has been introduced in both the House and the Senate. This bill would permit the SEC more flexibility in its hiring process, making it easier for the SEC to hire the staff it needs to carry out these additional responsibilities.

Several important SEC initiatives indicate an enhanced workload for the Division of Investment Management. First, the Division will be responsible for monitoring compliance with the new requirements related to proxy voting. Second, the Division will be responsible for providing the SEC with a report on the hedge fund industry, assisting with SEC hearings to be conducted in connection with this endeavor, and analyzing the need for, and potentially developing, new regulations related to hedge funds. Third, the Division will be instrumental in responding to Congressional inquiries related to mutual fund issues. These important initiatives, which will affect millions of American investors, will require additional staff to see that they are properly analyzed and to develop appropriate recommendations.

Adequate funding is also needed for the SEC's new enhanced risk-based inspection program, which began in fiscal year 2003 and will continue in fiscal year 2004. For investment companies and investment advisers, this means that those with relatively higher risk profiles will be examined every two years, while all remaining firms will be examined no less frequently than every four years. These more frequent inspections are a significant improvement over the five-year inspection cycle for investment advisers and investment companies that existed prior to fiscal year 2003, and the SEC's appropriations should be sufficient to continue this important initiative.

Finally, adequate funding is essential to the SEC's efforts to educate investors. The SEC's Internet website contains many sources of important information for investors, including an on-line publication explaining mutual funds and investor alerts

¹The Investment Company Institute is the national association of the American investment company industry. Its membership includes 8,929 open-end investment companies ("mutual funds"), 553 closed-end investment companies and 6 sponsors of unit investment trusts. Its mutual fund members have assets of about \$6.322 trillion, accounting for approximately 95 percent of total industry assets, and 90.2 million individual shareholders.

that help investors avoid scams and securities frauds. These and other SEC programs assist investors to understand the capital markets and establish realistic expectations about market performance. This is an integral part of the agency's mission to protect investors.

In order to accomplish these worthy objectives and to continue to function as an effective regulatory agency, we support that the SEC be funded at the level requested by the Administration and supported by Chairman Donaldson.

We appreciate your consideration of our views.

PREPARED STATEMENT OF AMERICAN RIVERS

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

This year, American Rivers was joined by more than 400 national, regional and local organizations concerned with river conservation throughout the United States¹ in calling for significantly increased funding for the following programs in the Commerce, Justice, State and the Judiciary (CJS) Appropriations bill. I urge that these requests be incorporated in the CJS Appropriations bill for fiscal year 2004.

Federal Salmon Plan for the Columbia and Snake rivers

Several Members of Congress from the Northwest, as well as the Administration, have pledged to work to restore twelve Endangered Species Act listed stocks of Snake and Columbia river salmon without partially removing the lower four Snake River dams. Congress can help honor that commitment by funding the necessary salmon recovery measures. More than two years since the release of the 2000 Federal Salmon Plan for the Columbia and Snake rivers, federal agencies have failed to fulfill nearly three-quarters of its requirements.

The Salmon Plan relies primarily on improving tributary and estuary habitat and reforming hatchery and harvest practices. While over 500 fisheries scientists and most conservationists believe that partial removal of the lower Snake River dams must be the cornerstone of a larger strategy to recover Snake River salmon, many elements of the Salmon Plan are also necessary to achieve salmon recovery.

If the Salmon Plan's non-breach recovery package is not funded and implemented, or if these actions do not yield the needed biological benefit for Snake River stocks, the plan contemplates seeking congressional authorization—after a “check-in” this September—to partially remove the four lower Snake River dams or pursue other stronger recovery measures.

Inadequate federal funding is a major reason that implementation of the Salmon Plan has fallen so far behind. Full funding for fiscal year 2004 will require \$529.3 million distributed among ten different federal agencies through five different appropriations bills. The CJS Appropriations bill governs funding for the National Marine Fisheries Service (NMFS), which is charged with pursuing and administering the Salmon Plan's crucial science and monitoring activities, as well as implementing hatchery and harvest reform measures. The administration has proposed increasing the NMFS budget for Columbia River salmon by approximately 50 percent this year, from the fiscal year 2003 level of \$26.2 million to \$39.7 million in fiscal year 2004. While this increase would be helpful, internal NMFS documents estimate that fully implementing the Salmon Plan would require an increase of closer to 200 percent.

To ensure full development of the scientific standards, reforms, and restoration activities required by the Federal Salmon Plan, Congress should fund NMFS Columbia Basin salmon programs at \$69.8 million.

Pacific Coastal Salmon Recovery Fund

Pacific salmon are a national treasure with enormous economic, cultural, and environmental significance in the states of Washington, Oregon, California, Idaho, and Alaska. A century ago, salmon were an anchor of the region's economy. Unfortunately, past and present mismanagement of our rivers, lands, and salmon fisheries have caused populations of salmon to decline dramatically over the past century, and 26 runs of Pacific salmon and steelhead are now listed under the Endangered Species Act.

One important program aimed at restoring imperiled runs of chinook, coho, sockeye, and chum salmon, as well as steelhead trout, is the Pacific Coastal Salmon Recovery Fund, funded through the National Oceanic and Atmospheric Administration. For the past three years, this program has provided much-needed assistance to

¹These groups have endorsed the “River Budget for fiscal year 2004”, a report of national funding priorities for local river conservation. A list of groups endorsing the River Budget can be viewed at <http://www.americanrivers.org/riverbudget/default.htm>

state, local, and tribal governments in Washington, Oregon, California, and Alaska for salmon recovery projects. This year we urge Congress to make the State of Idaho and Snake River salmon and steelhead eligible to benefit from this program as well.

By increasing funding for the Pacific Coastal Salmon Recovery Fund in fiscal year 2004, Congress can help restore this economically, culturally, and ecologically valuable resource and help the Northwest states and local communities to adopt and embrace the measures needed to restore Pacific salmon and steelhead. Restoring salmon will also allow the United States to satisfy treaty obligations with Northwest Indian tribes and Canada.

We urge Congress to increase funding for the Pacific Coastal Salmon Recovery Fund to no less than \$200 million in fiscal year 2004.

Fisheries Habitat Restoration

The fisheries habitat provided by estuaries and coastal wetlands serves many essential functions for communities across the nation. Eighty to 90 percent of all recreational fish catch and 75 percent of all commercial harvest depends upon healthy coastal and estuarine habitats. More than half the coastal wetlands in the lower 48 states have been lost, and almost 40 percent of estuarine habitat has been impaired by damming and diverting countless rivers and streams.

The Fisheries Habitat Restoration program, funded through the National Oceanic and Atmospheric Administration (NOAA) Restoration Center, reaches out to local constituencies to accomplish on-the-ground, community-based projects to restore estuaries and coastal habitats. Partnerships and local involvement are fundamental to the success of this program. Partners typically match federal dollars 1:1 and leverage those dollars up to 10 times more through state and local participation. To date, the program has funded 600 projects in 25 states, promoting fishery habitat restoration in coastal areas with a grassroots, bottom-up approach.

We urge Congress to provide the NOAA Fisheries Habitat Restoration Program with \$18,500,000 to help more communities restore and protect and restore the health of their estuaries and coastal habitats.

Hydropower Relicensing

The National Marine Fisheries Service (NMFS) would greatly benefit from additional funding to address the growing number of hydropower dams that need renewal of their operating licenses from the Federal Energy Regulatory Commission (FERC). Under the Federal Power Act, NMFS plays a role in setting license conditions to protect and conserve anadromous (sea-run) fisheries such as Pacific and Atlantic salmon, steelhead and sea-run cutthroat trout, and shad. Licenses are nearing expiration at hundreds of dams around the country, and workloads are increasing for NMFS and other resource agencies. Increasing NMFS's limited hydropower relicensing budget would help ensure a more efficient licensing process, benefit the hydropower industry, and further efforts to protect and restore our nation's anadromous fisheries.

Congress should provide NMFS with a \$2 million increase to its Habitat Conservation line item specifically for hydropower relicensing.

PREPARED STATEMENT OF THE ALLIANCE FOR INTERNATIONAL EDUCATIONAL AND CULTURAL EXCHANGE

The Alliance for International Educational and Cultural Exchange appreciates the opportunity to submit testimony in support of the educational and cultural exchange programs administered by the Department of State.

The Alliance is the leading policy voice of the U.S. exchange community, and has worked closely with the subcommittee on exchange issues. We note with gratitude the subcommittee's role in increasing exchange appropriations in recent years.

The Alliance comprises 67 nongovernmental organizations, with nearly 8000 staff and 1.25 million volunteers throughout the United States. Through its members, the Alliance supports the international interests of 3300 American institutions of higher education.

With grassroots networks reaching all 50 states, Alliance members help advance the U.S. national interest by putting a human face on American foreign policy, transmitting American values, fostering economic ties with rapidly developing overseas markets, and assisting individuals with the development of critical foreign language, cross-cultural, and area studies expertise. Our members also leverage considerable private resources—in cash and in kind—in support of these critical programs.

By engaging a very broad array of American individuals and institutions in the conduct of our foreign affairs, exchange programs build both enhanced under-

standing and a web of productive contacts between Americans and the rest of the world.

Our requests for the fiscal year 2004 exchange appropriation fall into three broad categories:

Core Exchange Budget—Bureau of Educational and Cultural Affairs

As a nation, we need to provide more opportunities for emerging leaders around the world to experience first-hand our society, our values, and our people. The Alliance therefore urges the subcommittee to provide substantial increases in funding for exchange programs. While appropriations for these programs have moved up in recent years, this account still lags well behind its historic levels in constant dollars due to the deep cuts of the mid-nineties. Coupled with the increases in fixed program costs such as airfare and accommodation, reduced appropriations have resulted in significantly diminished participant levels in programs consistently cited by our embassies as one of their most effective means of advancing U.S. policy interests.

For example, the Bush Administration's request for the State Department's core exchanges in fiscal year 2004, excluding funding for programs provided for under the Freedom Support Act and SEED, appears to be level with the current year appropriation of \$245 million. In fact, we understand that this "level funding" amounts to a reduction of approximately \$7.5 million available for programs, when one factors in increased costs.

While exchange budgets have risen in recent years thanks to the leadership of this subcommittee, State Department figures for the core exchange budget—excluding Freedom Support Act and SEED funding—indicate that exchange funding has declined 40 percent in constant dollars over a 10-year period (1993–2002).

As our experiences since September 11, 2001, demonstrate clearly, we need public diplomacy and exchanges more than ever. We need to build trust and understanding for our people and our policy goals not just in the Muslim world—an effort that will be of critical importance—but around the globe. To win the war on terrorism and to rebuild Iraq, we will need the help of our friends and allies in every region of the world. This is a time to intensify and expand our public diplomacy, and we believe there is strong bipartisan support in Congress to do exactly that.

We therefore urge the subcommittee to fund the Department of State's core exchange budget at \$286 million, the level authorized by the 107th Congress. This amount would provide for targeted, meaningful growth in every region of the world in support of our most important foreign policy objectives.

Exchanges with the countries of the former Soviet Union and Central Europe

We note that the Bush Administration budget request moves funding for exchange programs authorized by the Freedom Support Act (FSA) and SEED into the CJS bill for the first time. If the appropriations subcommittees agree with this change and the CJS subcommittee includes these programs in its bill, we urge you to substantially increase funding over the Administration's request.

The Administration has requested \$100 million for these programs. Our best estimates suggest that this level represents a cut of approximately 28 percent. We hope the subcommittee will agree that this reduction is unwise in regions of the world of such strategic importance to the United States. This is particularly true when one considers the effectiveness and impact of these exchange programs.

We urge the subcommittee to fund FSA and SEED programs at an overall level of \$145 million, which would allow for increases in program costs and a modest boost for these high priority activities.

A central aspect to the opening of the region has been the opportunity for the peoples of these countries to see how a democratic society functions, based on the principles of democracy and a free market economy. In recent Congressional testimony, former U.S. Ambassador to the Russian Federation James W. Collins said, "Efforts at reform in business and education—are just beginning to take hold. We're just starting to create an established and recognizable critical mass of individuals able to sustain our national interest in fostering reforms in these countries. Now is not the time to be reducing these efforts, particularly with Russia and Ukraine, whose challenges remain paramount. I believe there is no greater priority in Eurasia at this time than developing and sustaining the young leadership of that region in their associations with the West and that responsibility remains critically in our hands."

Islamic Exchange Initiative—Building Cultural Bridges

While the need for increased funding is worldwide, increased exchanges with the Islamic world are particularly critical as we pursue the war on terrorism. To defeat terrorism, the United States will need more than the might and skill of our armed

forces. To ultimately defeat terrorism, we must also engage the Muslim world in the realm of ideas, values, and beliefs.

No previous foreign affairs crisis has been so deeply rooted in cultural misunderstanding. One of the lessons of September 11 is that we have not done an adequate job of explaining ourselves to the world, or of building the personal and institutional connections with these countries that support healthy bilateral relationships. Policy disagreements alone cannot account for the fact that many in Islamic countries regard the United States, the greatest force for good in human history, as a source of evil.

A Gallup poll conducted in February 2002 reported that 61 percent of Muslims believe that Arabs did not carry out the attack on the United States. That statistic alone speaks somber volumes about our failure to project our values and ideals effectively in Islamic nations.

Given the importance and urgency of the task and the broad arc of countries we will need to engage, stretching from Africa to Southeast Asia, we urge the subcommittee to appropriate \$100 million for this purpose.

As a long-term solution to the profound problems of cultural misunderstanding, there is no substitute for public diplomacy. It must be a key component of our long-term effort to eradicate terrorism. Public diplomacy in the Muslim world will require a sustained, serious effort if we are to succeed in our quest for lasting peace and security, stable bilateral relationships, and an end to terrorism. An Islamic Exchange Initiative, designed to broaden the range of meaningful relationships based on shared interests with current and emerging leaders and key institutions in Muslim countries, will be critical to our success.

Changing minds—or merely opening them—is a long, painstaking process. There are no quick fixes. If we are to win the war on terrorism, there will be no avoiding the need to build bridges between the American people and the people of the Muslim world. We must begin this process now.

In the Islamic world, we envision this initiative engaging the full range of programs and activities managed by the Bureau of Educational and Cultural Affairs: Fulbright and Humphrey exchanges that will stimulate broader cultural understanding, joint research and teaching, and foster positive relationships with a new generation of leaders; university affiliations targeted toward key fields such as mass media and economic development; International Visitor and other citizen exchange programs designed to bring emerging leaders into significant and direct contact with their professional counterparts and the daily substance of American life; youth and teacher exchanges and enhanced English teaching programs, all designed to bring larger numbers of young people a direct and accurate picture of our society, based on personal experience rather than vicious stereotyping.

Increasing the State Department's exchanges with the Islamic world will give us the means to develop productive, positive relationships. This initiative will engage the American public—in our communities, schools, and universities—in an effort to project American values. We will find no better or more convincing representatives of our way of life.

And the engagement of the American public will leverage significant additional resources to support this effort.

Initial efforts were made during the 107th Congress to both authorize and fund programs on a broad range of exchange activities to build relationships with the Islamic world and enhance U.S. national security.

We commend the subcommittee for funds made available in the fiscal year 2002 supplemental for Islamic exchanges. The \$10 million appropriated by this subcommittee has been put to good use by the Department of State in key programs such as Fulbright, International Visitors, and English teaching.

We also recognize that this funding reflected the broad bipartisan support for an Islamic Exchange Initiative, clearly expressed in the passage in the House of the Hyde/Lantos Freedom Promotion Act, and in the Kennedy/Lugar Cultural Bridges Act, which attracted 12 cosponsors of both parties in the Senate.

A meaningful and effective Islamic exchange initiative will require \$100 million above the appropriation for the State Department's core exchanges. We recognize that this is a significant amount of money. We believe, however, that this funding level is necessary and appropriate given the expanse of the Muslim world and the urgency and importance of the task at hand. Moreover, this amount of money spent on promoting our ideas and values is very small when compared to the sums we will expend on military hardware, but it is no less crucial to our success.

The level of support we have witnessed from senior members of both parties and both chambers underscores the timeliness and importance of this initiative. This is a moment when our national interests require Congressional leadership to build these cultural bridges.

Other program issues

In addition, we would like to draw the subcommittee's attention to three specific programs we believe are deserving of additional support:

- The Foreign Study Grants for U.S. Undergraduates program, also known as the Gilman Scholarship Program, assists students of limited financial means from the United States to pursue study abroad. Demand for the scholarships is enormous, demonstrated by the nearly 3,000 applicants from 44 states and Puerto Rico last year. Due to funding constraints, however, the program was only able to grant 302 awards.
- The Educational Partnership Program (formerly known as the College and University Affiliations Program) supports cooperation between U.S. colleges and universities and foreign post-secondary institutions in the form of faculty exchanges, curriculum development, collaborative research and other activities.
- Overseas Educational Advising/Information Centers serve as an important, unbiased information resource for prospective foreign students interested in the United States.

We have provided subcommittee staff with report language on these issues and welcome the opportunity to discuss them with you.

The U.S. exchange community stands ready to assist you in these efforts, and is grateful for your support.

PREPARED STATEMENT OF THE AMERICAN FOREIGN SERVICE ASSOCIATION

Mr. Chairman and members of the Subcommittee, on behalf of the American Foreign Service Association (AFSA) and the 23,000 active-duty and retired members of the Foreign Service, I express our appreciation for the opportunity to share our views and concerns with you.

The work of this Subcommittee is vital to the success of our Nation's foreign policy. Your decisions determine whether we have the infrastructure and many of the tools of diplomacy needed to implement our policy. The Subcommittee's and the Congress's support of the Administration's request in meeting our staffing needs, improving our information technology systems, making our posts and missions more secure, and providing for an active exchange program is very much appreciated. Certainly Secretary of State Colin Powell and his staff also must be thanked for their hard work on our behalf as they make their presentations before the Congress. The Secretary consistently describes his current role as both the President's principal foreign policy advisor and as the CEO of the Department of State. It has been a long time since the Foreign Service has had a Secretary who has worn both hats so effectively.

As the representative of the Foreign Service, our major concern is the appropriations for the Administration of Foreign Affairs section of the appropriations bill. This area covers funding for personnel and especially the Secretary's Diplomatic Readiness Initiative (DRI), funding to bring the Department into the 21st Century in terms of information and communications technology, and the security of our people as they serve this Nation in over 250 posts and missions around the world.

CONTINUED VIGILANCE OF STAFFING NEEDS REQUIRED

With the fiscal year 2004 request of \$97 million for the DRI to hire 399 additional foreign affairs personnel above attrition, we are in the final year of a three-year plan to fill an identified personnel shortfall of over 1,100 people.

As you know, several important 1999 and 2000 studies from very respectable organizations found the infrastructure of diplomacy "near a state of crisis." The Overseas Presence Advisory Panel (OPAP) reported in 1999:

"The United States overseas presence, which provided the essential underpinnings of U.S. foreign policy for many decades, is near a state of crisis. Insecure and often decrepit facilities, obsolete information technology, outmoded administrative and human resources practices, poor allocation of resources, and competition from the private sector for talented staff threaten to cripple our nation's overseas capability, with far-reaching consequences for national security and prosperity."

Fortunately the warnings in those studies were taken to heart. The Secretary and the Congress worked together to fill that personnel shortfall and to improve our information technology over three years. We are already beginning to see the benefits as new personnel are hired, the stress is being lifted from the shoulders of overly stretched personnel and there is an easing, though not a reduction, in the work expectations of "doing more with less." Foreign Service personnel are able to take needed training and participate in career development programs instead of having

to choose between training and filling an empty position, and a surge capacity is developing.

Further, because of the support for our information and communications technology systems, our equipment is modern and we have or will soon have classified and unclassified connectivity to every post that requires it, and access to the Internet from our desktops. Our communications and information systems are no longer the sad joke they had become, and there are plans to continue improvements in these areas including the SMART initiative to overhaul the systems for cables, messaging, information sharing, and document archiving.

The momentum that started two years ago needs to be maintained. The DRI needs to be successfully completed and the drive to improve our information and communications technology sustained.

However, Mr. Chairman, in terms of the DRI, I would also urge the Subcommittee to see adequate staffing as a dynamic process. The 1,158-person shortfall was identified nearly 3 years ago as existing at that point in time. Conditions have changed since then, and the complexity of the demands on diplomacy continue to grow around the world. Section 301 of Public Law 107-228, the Foreign Relations Authorization Act of 2003 requires the Secretary of State to submit a "Comprehensive Workforce Plan" for the Department for the fiscal years 2003 through 2007. "The plan shall consider personnel needs in both the Civil Service and the Foreign Service and expected domestic and overseas personnel allocations." AFSA would encourage the Subcommittee to consider these workforce plans for staffing considerations as a start to accommodate changes in the world in the coming years. We were near crisis until the Administration and the Congress stepped in to turn things around. The job is not done, and such a situation should not be allowed to occur again. As the Secretary often states, "diplomacy is the first line of offense," and there are serious consequences for the economy, the welfare and the security of our nation if diplomacy is not adequately funded to do the job.

EMBASSY SECURITY—STILL MUCH TO BE DONE

AFSA believes that together, the Department of State and the Congress have been making impressive strides in improving the security of our posts and missions abroad. After the 1998 east Africa bombings of our embassies, the Accountability Review Boards (ARB), chaired by Admiral William Crowe, looked into the cause of those bombings and made several important conclusions. First, they found that there was a new face to international terrorism and a new threat environment. Secondly, the ARB found that the cause of the bombings could not be placed at the doorstep of any single individual but that it was a systemic problem of inattention.

"... there was a collective failure by several Administrations and Congresses over the past decade to invest adequate efforts and resources to reduce the vulnerability of U.S. diplomatic missions around the world to terrorist attacks."

The "new threat environment" continues to haunt us as seen by the continued attacks on the symbols of our country at home and abroad. However, we have seen the second lesson addressed through a major multi-year increase in security funding in both the hiring of additional security personnel and in security upgrades that has left no facility abroad unimproved. This increased funding is paying off as evidenced by the minimal damage done to the American Consulate in Karachi in a terrorist bombing in July 2002.

Mr. Chairman, despite significant upgrades to the security of our facilities around the world, the General Accounting Office reported in its March 20, 2003 testimony before the Senate Committee on Foreign Relations:

"... even with these improvements, most office facilities do not meet security standards. As of December 2002, the primary office building at 232 posts lacked desired security because it did not meet one or more of State's five key current security standards. . . . Only 12 posts have a primary building that meets all 5 standards. As a result, thousands of U.S. government and foreign national employees may be vulnerable to terrorist attacks."

The Foreign Service does not seek hilltop fortresses in which to do our work. Such would be counterproductive to our purpose for being in a country. We accept the dangers that are part of our profession, but we also expect that our government, which sends us to these posts, should seek to provide for our safety as much as possible. AFSA urges that funding continue at its current, if not an accelerated pace, to complete the work of securing our posts and missions abroad.

"*Soft Targets*"—There is a subset of our concerns about the security of our posts and missions abroad. As you know from our testimony submitted to the Sub-

committee last year, threats to “soft targets” are a major concern to the Foreign Service. In just the past year, we have had a mother and daughter killed in a church in Islamabad, Pakistan, and an USAID official assassinated in front of his house in Amman, Jordan. We also saw the bombing of a nightclub that was popular a Western tourist spot in Bali, Indonesia. The threats to “soft targets” are very real for us. To Foreign Service members, the term “soft targets” means our spouses and children as we try and lead a somewhat normal life of going to school, to church, and on other family outings.

Mr. Chairman, we appreciate and thank you for your personal concern and leadership in this area. It is clear that through your and this Committee’s work, the legislative branch understands that more than bricks and mortar need to be protected, but the Foreign Service community as well. The lead that this Committee took in setting aside funds to examine the threat against schools abroad that our children attend, and the Senate’s designation, through your work, to have \$10 million additional funds for soft target protection in the fiscal year 2003 Supplemental Appropriations add to our appreciation. While the additional funds for embassy security were significant, we were sorry to see that Conference recommendations had dropped the additional funds specifically designated for soft target protection.

AFSA urges this Subcommittee to continue in its efforts to provide additional funding to shore up this important part of our overseas security. “Soft targets” is a descriptive euphemism, but what we are really talking about is the lives of our people and their families as they serve this Nation abroad.

CONCLUSION

Mr. Chairman and members of the Subcommittee, I again wish to express our appreciation for the opportunity for the American Foreign Service Association to share our views and concerns with you. The decisions you make affect both our professional and private lives as we serve this Nation abroad. You directly help determine how safe we are at work and in our housing abroad; what our working conditions are like, from having to work in converted cargo boxes to comfortable, fully equipped offices; whether we have adequate staffing to share the work and whether we have information and telecommunications software and equipment to talk to our Colleagues around the world. We thank you for your understanding these past few years, and we ask for your continued support in the fiscal year 2004 funding process and beyond.

PREPARED STATEMENT OF THE ASSOCIATION OF SMALL BUSINESS DEVELOPMENT CENTERS

Mr. Chairman, Mr. Ranking Member and members of the Subcommittee, I am Donald Wilson, President of the Association of Small Business Development Centers (ASBDC). The Association is grateful for the opportunity to submit this testimony for the record of the Subcommittee’s fiscal year 2004 hearings.

ASBDC’s members are the 58 State, Regional and Territorial Small Business Development Center programs comprising America’s Small Business Development Center Network. All Small Business Development Center (SBDC) grantees, located throughout the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam and American Samoa, are members of the ASBDC.

Since its establishment by Congress in 1980, America’s Small Business Development Center Network has provided in-depth counseling of an hour or more, and training of two hours or more, to roughly 10 million small business owners and aspiring entrepreneurs. In addition, millions more entrepreneurs have used the network as an informational resource for answers to questions as simple as how to get a business license or where to get an employer identification number.

ASBDC urges the Subcommittee to fund our nation’s SBDC network at its currently authorized level of \$125 million in the fiscal year 2004 Commerce-Justice-State Appropriations bill. The Association recognizes the difficult funding choices that the Subcommittee must make in these difficult times, and that ASBDC’s recommendation represents a significant increase in the current funding level for the SBDC program. However, America’s SBDC network can help our country recover from its current economic stagnation, create desperately needed new jobs, and generate the additional Federal revenues needed to reduce the budget deficit.

First, it is important to note that Federal funding for the SBDC network generates more revenue for the Federal treasury than it costs the taxpayer. The President’s fiscal year 2004 Budget points out that an independent evaluation of the SBDC program indicated that each \$1 spent on SBDC counseling resulted in \$2.78 in tax revenues. The SBDC program generated an estimated \$182.9 million in Fed-

eral revenue in 2001—an excellent return for a Federal investment of \$88 million for the nationwide SBDC program.

In addition, America's SBDC network has a proven record of creating jobs and generating growth for America's small businesses. At the beginning of the most recent recession in 2001, as large corporation after large corporation announced layoffs, long-term counseling clients of the SBDCs added 46,688 new jobs, saved 34,215 existing jobs, started 12,872 new businesses, increased sales by \$3.9 billion, and saved an additional \$4.3 billion in sales. In addition, SBDC long-term counseling helped small businesses obtain an estimated \$2.7 billion in financing in 2001. That means every dollar spent on the operation of the SBDC network leveraged approximately \$15.89 in new capital raised by long-term SBDC clients in 2001.

Based on its record over the past 10 years, with funding of \$125 million our nation's SBDC network could help SBDC long-term counseling clients to:

- create an estimated 111,744 new full time jobs;
- increase sales by an estimated nine billion dollars;
- produce an estimated \$266 million in additional revenue for the Federal government; and
- produce an estimated \$397 million in additional tax revenue for State governments.

Federal funding for the national SBDC network is an investment in the job creation potential of America's small business sector—the engine of our nation's economy. Today, job creation by small businesses has declined as America's entrepreneurs struggle in a sluggish economy. Initial weekly unemployment claims have been above 400,000 for the past eleven consecutive weeks—a clear indication that the economy is still struggling to recover from recession. In fact, 2001 and 2002 were the worst two consecutive years of job creation in the American economy since the 1950's.

America's SBDC Network can help the small business sector of our economy generate jobs again, but we need the resources to do the job. Federal funding available for distribution to the SBDC program decreased between fiscal year 1994 and fiscal year 2004 (after accounting for inflation, earmarks and the establishment of the SBDC program in Guam and American Samoa)—while Federal government receipts increased by 26 percent in constant dollars. In addition, as a result of the 2000 Census, 24 States—including Kentucky, Maryland, New Mexico and Wisconsin—are subject to receiving less Federal funding for their SBDC programs than they received in 2001—simply because their populations did not grow as fast as other State populations.

There is room in the Federal budget for increased resources for our nation's SBDC network. For example, the Small Business Administration (SBA) Budget proposal for fiscal year 2004 calls for increasing the SBA's Salaries and Expenses account to \$219 million. That is an increase of \$57 million (35 percent) compared to fiscal year 2002, and an increase of \$10 million (5 percent) compared to the SBA's fiscal year 2003 Budget proposal. However, the SBA's Budget proposal calls for cutting the SBA Non-Credit Business Assistance account to \$141 million in fiscal year 2004. This is the account that funds SBDCs and other programs that provide direct assistance to small businesses. For those programs, the SBA's Budget proposes to cut \$26 million (20 percent) compared to fiscal year 2002, and \$3 million (2 percent) compared to the SBA's fiscal year 2003 Budget proposal. Funding for SBA can be more wisely spent on direct assistance for small businesses rather than on administrative overhead.

I urge you to consider that Federal funding for the SBDC network is now more important than ever, as State governments across the country—including possibly Colorado, Hawaii, Kentucky, Maryland, New Hampshire, Texas, Vermont, Wisconsin and others—are cutting back on their contributions to the SBDCs. This is not because of lack of support for the SBDC program, but rather because of the revenue crises faced by State governments across the country. Unless Federal support for the national SBDC network is able to make up for cuts in State funding, SBDC program capacity across the United States will have to be severely cut back. Counselors will have to be laid off and service centers will have to be closed. The job creation and economic development activities of the SBDC network will be curtailed proportionately—at the very time that the economy is in need of a stimulus.

Recent and pending state budget cuts in SBDC funding will assure that America's Small Business Development Center network will contract even further this year without a significantly increased federal appropriation. Rural areas which have unique economic development needs have already been adversely impacted by the closing of centers and the laying off of counselors. Unlike other federal management and technical assistance programs, federal dollars appropriated to the SBDC program leverage roughly three additional non-federal dollars. The decline in state re-

sources as result of the crisis in state budgets cannot possibly be made up from private sector sources in the current economic climate. The Federal government needs to recognize the growing financial plight of the SBDC network in these trying economic times. If the Federal government does not allocate resources to the SBDC program at a level approximating \$125 million for fiscal year 2004, the management and technical assistance needs of tens of thousands of small firms will go unmet and thousands of private sector jobs will likely be lost. The resulting decline in economic activity will surely have a significantly negative impact on state and federal budgets. The remarkable infrastructure of over 900 SBDC service centers developed over the past twenty-three years will deteriorate even further as more service centers are closed and dedicated counselors are laid off.

The work of America's Small Business Development Center Network is constantly being recognized by others. The Bill J. Priest Institute for Economic Development, a Division of the Dallas County Community College District, was the only recipient of the Texas Award for Performance Excellence in 2002. The award is patterned after the Malcolm Baldrige National Quality award and recognizes Texas organizations that excel in world-class management, achievement, and performance excellence in applying quality and customer satisfaction principles. A critical component of the Institute is the Dallas Regional SBDC. NAMTAC, the National Association of Manufacturing and Technical Assistance Center's, presented its 2002 Outstanding Project of the Year Award to the New York State SBDC for its efforts to help small businesses recover from the September 11, 2001 terrorists attack in that state. The Maine SBDC program late last year was awarded the Margaret Chase Smith Maine State Quality Award. This award recognizes organizations for performance excellence based on criteria corresponding to the Malcolm Baldrige National Quality Award.

In June of last year Secretary of Commerce Evans presented the Black Hawk College Export Trade Center, a special component of the Black Hawk College SBDC, with the President's "E" Award for Exporting Excellence. This prestigious award was created by President John F. Kennedy to recognize U.S. Businesses or organizations that have demonstrated outstanding growth and innovation in exports or export service. ASBDC is proud of the accomplishments of its members and their capable and committed personnel.

The Subcommittee's consideration of fiscal year 2004 funding for the SBDC program comes at a critical time for our nation's economy. Small businesses generate 52 percent of Gross Domestic Product, represent 99 percent of all employers and employ 51 percent of all private sector employees. During the past decade small businesses created roughly 70 percent of net new jobs in our economy. But all is not well with the small business sector. The most recent data available from SBA's Office of Advocacy finds that in 2001 small business bankruptcies nationwide increased nearly 13 percent over the previous year. No doubt, newer national figures will show those numbers further increasing. The majority of small business owners have never received any formal entrepreneurial training. The majority has never managed a business during an economic downturn. The need for management and technical assistance within the small business sector is greater today than ever before. The Department of Labor confirms that when unemployment rises, self-employment rises.

There are 23 million small business owners in the United States, and the Kauffman Foundation estimates that one in 10 adult Americans is seeking to start his or her own business. Forty percent of SBDC clients are women (SBDC's served over a quarter million female clients last year) and 22 percent are minorities. Demand for entrepreneurial services among these constituencies is exploding.

SBA figures for fiscal year 2002 show that SBDC counseling cases and training attendees combined increased from 610,000 in fiscal year 2001 to 650,000 in fiscal year 2002 despite an increase in federal funding of less than \$100,000. These client numbers represent real people, your constituents, individuals, many with families, and mortgages, tuition payments and dreams. They are real people like Dr. Harris Goldberg, a chemist from Hillsborough, New Jersey who was featured in a December 16, 2002 article in the Wall Street Journal. Dr. Goldberg had been laid off, decided to seek assistance at his local SBDC and now has his own successful firm providing employment to others.

If we are to have any chance of growing this economy at the level needed to provide jobs and enhance federal revenues, there must be a clear determination by Congress to provide the resources to increase the service capacity of the SBDC program. ASBDC appreciates the Subcommittee's support for the SBDC network in past years. I urge you to support an appropriation of \$125 million for our nation's SBDC network in the fiscal year 2004 Commerce-Justice-State Appropriations bill. Thank you.

PREPARED STATEMENT OF THE NATURE CONSERVANCY

The Nature Conservancy is escalating its focus on freshwater, coastal, and marine conservation by establishing Freshwater and Marine Initiatives that will employ the science, partnerships, ecosystem approach, and site-based conservation that has worked throughout our fifty-year history. These initiatives will strengthen the work that we are engaging in with partners to develop a “conservation blueprint” identifying the places that, if conserved, will collectively protect the nation’s plants, animals, and natural communities for the long-term. Several NOAA programs have been, or will be successful at conserving many places identified by our blueprint.

Coastal Zone Management

CZM Grants to States—\$80 million

CZM Program Administration—\$7.5 million

Non-point Pollution Implementation Grants—\$15 million

This unique federal-state-territorial partnership created under the Coastal Zone Management Act (CZMA) serves to protect, restore, and responsibly develop the nation’s coastal communities and resources along 95,000 miles of shoreline. State and territorial CZM programs link national objectives with implementation and stewardship at the local level. Increased funding for this program in fiscal year 2004 would advance protection of coastal, ocean, and Great Lakes species and their habitats; maintain the natural shoreline such as beaches, dunes and wetlands; and enhance scientific research and education, while allowing for certain economic growth.

Many Conservancy chapters already pursue mutual goals with state CZM programs. We are working to strengthen these partnerships in light of our heightened emphasis on conserving freshwater, coastal, and marine biodiversity.

National Estuarine Research Reserve System

Operations—\$18 million

Procurement, Acquisition and Construction—\$15 million

Authorized as part of the Coastal Zone Management Act (CZMA), the twenty-five “living laboratories” making up the National Estuarine Research Reserve System (NERRS) require funding appropriate to the importance of estuaries to critical habitat and coastal economies. Adequate funding for the NERRS will permit individual reserves to better implement strong management, research, education, and stewardship activities within surrounding communities, and acquire key tracts of land and conservation easements that buffer development impacts. This funding would also facilitate implementation of system-wide monitoring and coastal training programs, and would enable expansion in order for the system to represent the suite of biogeographic regions that together comprise our nation’s coastlines.

We work closely with New Hampshire’s Great Bay, Florida’s Apalachicola Bay, Alaska’s Kachemak Bay, South Carolina’s ACE Basin, and Mississippi’s Grand Bay reserves. As preserve managers, we at the Conservancy know first hand that the NERRS implements solid science to inform communities about how coastal ecosystems function, how humans affect them, and methods for improving their condition.

National Marine Sanctuaries—\$38 million

The Nature Conservancy urges the Committee to fund the National Marine Sanctuary Program at their fully authorized level of \$38 million in fiscal year 2004 and we support the President’s funding request for \$10 million for Procurement, Acquisition & Construction for the Sanctuaries. This funding would extend volunteer programs, provide for additional monitoring, and would fulfill a national plan for public outreach. It would also enable new investments in science needed to better manage complex issues surrounding sanctuaries. Finally, additional funding will enable implementation of revised and more detailed management plans.

The Conservancy is currently working cooperatively with the NMS program and the National Marine Sanctuary Foundation to develop effective volunteer programs for all of the Sanctuaries to better leverage federal investments with the “sweat equity” of those thousands of committed volunteers across the country. We are also working with the Monterey Bay NMS to determine overlapping goals and opportunities for collaboration as the sanctuary reviews its management plan. Finally, our most extensive experience has been with the Florida Keys NMS where their management plan, developed in cooperation with the state of Florida and the Sanctuary Advisory Committee, is being implemented.

Coastal and Estuarine Land Conservation Program—\$60 million

The Coastal and Estuarine Land Conservation Program (CELCP) was authorized by Congress as part of the Commerce, Justice, State, and Judiciary Appropriations Act of 2002. In its first year, this new program directed \$15.8 million to coastal and estuarine areas with significant conservation, recreation, ecological, historical, or aesthetic value that are threatened by conversion from their natural state to other uses.

Nowhere in the nation are threats such as sprawl, habitat loss, and fragmentation more significant than along our nation's coasts. That is why a program providing grants that allow for land acquisition as a conservation strategy serves as an important addition to federal efforts focused on protecting valuable habitat for the long-term. As a result, The Nature Conservancy supports a significant increase in funding (\$60 million) for the CELCP in fiscal year 2004.

In addition, we have identified four high-priority projects for CELP funding in fiscal year 2004:

- Crow's Nest (VA)—\$4 million
- Gustavus Land Access and Enhancement (AK)—\$1.5 million
- Amsterdam Beach (NY)—\$3 million
- Ingleside (TX)—\$500,000

Fisheries Habitat Restoration—\$20 million

The Nature Conservancy strongly supports NOAA's coastal habitat restoration efforts, and recommends funding levels of \$20 million for Fishery Habitat Restoration. Most of this funding would ensure the continued success of NOAA's Community-based Restoration Program (CRP). This funding level would enable the CRP to direct more seed money to local communities across the country for the restoration of vital habitats including wetlands, seagrass beds, mangroves, anadromous fish spawning areas, and coastal rivers. Additionally, it would increase the CRP's geographic scope and the rate at which it can encourage community ownership and restoration of critical and rapidly dwindling habitat. This program has not only leveraged up to \$10 for every federal dollar invested at more than 500 projects, but has also leveraged a conservation ethic across the nation.

As a national partner, the Conservancy has experienced first hand how the CRP inspires local efforts to conduct meaningful, on-the-ground restoration of freshwater, coastal, and marine habitat. Since partnering with the CRP in 2000, we have already directed \$1 million to community-based projects in Florida, New York, Connecticut, North Carolina, Delaware, Virginia, California, and Texas. With one year remaining in our national partnership, we are excited about what lies ahead.

Pacific Salmon Recovery Program

The Conservancy considers salmon conservation a critical aspect of our work in the Pacific Northwest, Alaska, and the Northeast. Given the complex life history of this keystone species—migrating hundreds of miles past forests and farms, cities and dams, from fresh to saltwater during their lifecycle—successful salmon conservation requires action across a broad landscape.

History has shown that money spent on habitat restoration and recovery could have been used more effectively and at less cost to the taxpayer if applied at a landscape-scale before systems were altered and degraded. However, habitat destruction, reduced streamflows, pollution, passage impediments, and overharvest have already played a role in the decline of salmon stocks. That is why generous funding to conserve and recover salmon in the Pacific Northwest and Alaska (\$200 million for the Pacific Coastal Salmon Recovery Fund; \$55 million for NMFS Funding for Pacific Salmon Recovery), and in the Northeast (\$30 million for an equivalent Atlantic Coastal Salmon Recovery Fund), is now needed.

In the Pacific Northwest and Alaska, the Pacific Coastal Salmon Recovery Fund has enabled states and tribes to support local efforts to evaluate, protect, and restore key habitat while enhancing local economies. NMFS funding enhances that support with scientific research and monitoring, and by spurring new cooperative efforts. In the Northeast, a significant amount of collaborative work among federal agencies, industry, private landowners, and other stakeholders has begun. The time is right to establish a similar approach and complementary funding for USFWS and NMFS.

Marine Protected Areas—\$5 million

Marine protected areas (MPAs) are proven tools for rebuilding and sustaining fisheries, recovering threatened and endangered species, and providing recreational opportunities. The Conservancy has learned this first hand through work with scientists, community members, international governments, and federal agencies to es-

establish MPAs and identify and protect biodiversity within them in places such as the Florida Keys, the Exuma Cays Land and Sea Park in the Bahamas, and Kimbe Bay in Papua New Guinea.

The Conservancy recommends that \$5 million be appropriated for MPAs so that NOAA can continue working with federal and state agencies and other partners to assess MPA design and effectiveness as a management tool that protects biodiversity while permitting use of the nation's valuable marine resources. Increased funding would also expedite information collection and collaborative efforts required for completion of the first nationwide inventory of MPAs. Additional funds would be employed to improve coordination and information sharing at regional and national levels; support training and technical assistance for communities, users, management agencies, and others; and increase public involvement through the MPA web site.

Coral Reef Conservation—\$30.25 million (total)

The Nature Conservancy supports the President's request for \$28.25 million in fiscal year 2004 for activities that benefit coral reefs, including:

- National Ocean Service—\$16 million + \$2 million
- National Marine Fisheries Service—\$11 million
- Ocean and Atmospheric Research—\$500,000
- NESDIS—\$750,000

This funding would be used to advance priorities identified by the U.S. Coral Reef Task Force including comprehensive mapping and monitoring of coral reefs, research into ecological processes upon which reefs depend, integration of human activities, and public education. With such funding, this scientifically-based effort will protect and restore coral reefs in the United States and its territories. It will serve as a model in intergovernmental coordination and coral reef protection for similar initiatives around the world.

The Conservancy urges the Committee to add to the President's request \$2 million for grants to support on-the-ground conservation efforts. The availability of a small pot of funds that could be made available as grants to community-based efforts to address land-based sources of pollution or to support collaborative efforts to identify and designate Marine Protected Areas would be of substantial benefit to implementing the Coral Reef Task Force Action Plan.

While NOAA's activities, guided by the Task Force, have made great strides in coral reef conservation, the Conservancy would like to see more funding dedicated to addressing this issue at an international scale. The combined effects of global climate change and human activities have led coral reef ecosystem health to decline severely all over the world in recent decades. It is now critical to take action before the tragedy becomes irreversible. Successful conservation of coral reefs will involve a broad-scale, global, and long-term commitment.

Estuary Restoration Program—\$1.2 million

The Nature Conservancy supports the President's request of \$1.2 million for NOAA in fiscal year 2004 to carry out their duties related to this program.

The Estuary Restoration Act of 2000 created this program with the goal of restoring one million acres of estuary habitat by 2010. Subject to annual appropriations by Congress, the legislation authorized \$275 million over five years dedicated to public-private partnerships reversing the deterioration of estuaries through restoration of habitat that has been degraded by population growth, dams, and pollution. The Estuary Restoration Act emphasized the need for a centralized source of information on restoration activities, that provides for a consistent monitoring methodology that supports an iterative process and meaningful measures of success.

International Conservation

Technical Assistance under CZMA—\$1 million

International Cooperation under NMSA—\$500,000

We recognize the significant accomplishments of the National Ocean Service (NOS) over the past several years in developing international capacity for integrated coastal management and marine protected area management particularly in Asia, the Pacific, and the Caribbean. NOS provides critical environmental leadership, for example: in the development of the recently ratified Protocol on Specially Protected Areas and Wildlife (SPA) in the wider Caribbean region, its support of the International Coral Reef Initiative and the Global Coral Reef Monitoring Network, its leadership of IUCN's World Commission on Protected Areas (Marine) and especially extensive preparations for the marine program of the World Parks Congress in September 2003. We encourage increased allocation of resources toward these and other international activities with \$1 million added to appropriations under Section 310,

Technical Assistance, of the Coastal Zone Management Act, and \$500,000 added to appropriations under Section 305, International Cooperation, of the National Marine Sanctuaries Act.

PREPARED STATEMENT OF THE AMERICAN BAR ASSOCIATION

I am Jonathan Ross a lawyer in private practice with the Manchester, New Hampshire law firm of Wiggin & Nourie. This testimony is submitted at the request of the President of the American Bar Association, Alfred P. Carlton, Jr., to voice the Association's views with respect to the fiscal year 2004 appropriations for the Legal Services Corporation and the Judiciary's Defender Services Program.

I submit this testimony in my capacity as Chair of the American Bar Association's Standing Committee on Legal Aid and Indigent Defendants. This Standing Committee serves the ABA and the nation by examining issues relating to the delivery of civil legal assistance and criminal defender services to the poor. It maintains a close liaison with state and local bar association leaders, providing information and developing policy and initiatives on civil legal aid and indigent defense.

LEGAL SERVICES CORPORATION

The ABA recommends LSC's fiscal year 2004 appropriation be increased to \$387.7 million.—The ABA is profoundly grateful for the Subcommittee's inclusion of the Harkin-Smith-Domenici amendment in the Senate's version of the fiscal year 2003 appropriation bill. This amendment increased LSC's funding by \$19 million and was intended to prevent drastic funding cuts to legal aid programs serving 26 states. We are also grateful for the Subcommittee's hard work to ensure that half of that amount, \$9.5 million, was included in the final version of the fiscal year 2003 appropriations bill.

As you know, the Corporation redistributes grants to local legal aid programs every 10 years using a formula based on the most recent census. This reallocation resulted in significant cuts to service areas in these 26 states, including Ohio, Mississippi, Pennsylvania, Missouri, Kentucky, Alabama, Texas, Wisconsin, Vermont, Louisiana, Illinois, West Virginia, Minnesota and Michigan. Because of the static nature of LSC funding and the 5.74 percent increase in the poverty population nationwide, even states whose poverty population (and LSC-eligible clients) remained the same or actually increased may have received funding cuts.

At present, however, no state is able to meet the current demand for legal assistance, as programs must continue to turn away eligible clients with all but critical legal needs. In addition to the increase in the number of eligible clients as a result of the increase in the national poverty population, almost every state has already experienced or expects significant decreases in supplemental funding provided through state legislatures and/or Interest on Lawyer Trust Accounts (IOLTA).

At the same time, various credible studies—state and national—continue to show that despite the combined efforts of legal aid programs and private bar pro bono attorneys, 80 percent of the legal needs of those in poverty go unmet. These people are substantially the “working poor” who encounter legal problems relating to family relationships, domestic violence, health, employment, housing and other basic life issues. Such hardships have only increased in scope and frequency since the terrorist attacks and as a result of the faltering economy. Now, with the mobilization of U.S. forces for the war in Iraq, there has been an increased demand for legal services among our servicemen and women, many of whom qualify for legal aid.

We understand that your Subcommittee faces many difficult funding choices right now. However, assuring access to our justice system for low-income individuals to resolve their legal problems peacefully is essential to preserving the rule of law. At this time, the ABA respectfully requests that the Subcommittee fund LSC at \$387.7 million for fiscal year 2004.

The LSC has historically been grossly under-funded. In 1996, Congress reduced LSC's funding by 30 percent from \$415 million to \$278 million and required many reforms in the way the LSC operated and restricted the activities of its local program grantees. The LSC has fully implemented all the required reforms, insuring that local grantees focus on meeting the basic, everyday legal needs of the poor. The appropriation has increased modestly since 1996, to \$338.8 million for fiscal year 2003, but this amount is less than half the funding, in constant dollars, that LSC received in 1980.

We estimate that, with inflation, the amount needed to merely bring LSC to pre-1996 levels would be \$490 million. The ABA therefore urges Congress to restore LSC's funding to \$490 million. In view of other pressing needs, we recognize that this cannot be accomplished at once, and ask the Subcommittee to increase LSC's

funding from the fiscal year 2003 level of \$338.8 million to this amount over a three-year period starting with a \$51.1 million increase in fiscal year 2004.

At the very minimum, the ABA urges the Subcommittee to provide at least \$352.4 million for fiscal year 2004, as recently requested by the Legal Services Corporation. LSC's request represents an increase correlating to the increase in the poverty population reported by the 2000 census.

The Legal Services Corporation Plays A Vital Role in the Justice System.—For more than a quarter century, the Legal Services Corporation has been a lifeline for Americans in desperate need. For poor Americans, LSC-funded legal services programs have been there at times when they had nowhere else to go. These are just a few examples of the millions of people legal aid lawyers help every year:

—Alexander and his wife had to move to another state for health reasons. They were unable to sell their mobile home, and eventually the lender repossessed the unit. Later, a collection agency notified them that they still owed \$12,000 on the note. At age 84, Alexander, who took pride in his good credit rating, wanted to do the right thing. He could not, however, pay the amount owed, nor could he afford an attorney. The local legal services office was able to assist him in obtaining a settlement agreement. He paid the settlement amount and was able to keep his good credit rating. He has returned to the work force part time and is caring for his ailing wife.

—Mark, 38 years old, was dying from non-Hodgkin's lymphoma. Conventional chemotherapy had helped, but he needed a special type of bone marrow transplant to ensure that the lymphoma would not recur. Without the procedure, his doctors predicted that he would have only one year to live. Medicaid denied the procedure, claiming that this type of transplant was not a covered benefit even though it is considered the current standard of care for the disease. Mark's legal services attorney successfully argued that the denial was improper. The transplant was successful, and Mark is now home and seeking employment.

The Corporation, formed in 1974 with bipartisan Congressional support and the endorsement of the Nixon Administration, was created to ensure that all Americans have access to a lawyer and the justice system for civil legal issues regardless of their ability to pay. Today, this is more important than ever. A weak economy has created pressing new legal needs for many Americans who have lost employment or suffered other setbacks. According to the 2000 census, more than 36 million Americans live in poverty, making more than one in six Americans eligible for LSC-funded representation.

The National Legal Aid Program Merits Strong Congressional Support Because:

—*LSC-funded programs provide basic legal services for poor Americans in every Congressional District in the country.*—LSC disburses 95 percent of its annual federal appropriation to 161 local legal aid programs serving low-income individuals and families in every county and Congressional District in the country. Boards consisting of leaders in the local business and legal communities set the priorities for and oversee these programs, which are required by law to provide basic legal services to the poor.

—*LSC-funded legal aid lawyers save and protect American families.*—Local legal aid programs make a real difference in the lives of millions of low-income American families by helping them resolve everyday legal matters, including family law, housing, and consumer issues, and by helping them obtain wrongly denied benefits such as social security and veterans' pensions. LSC-funded programs often provide assistance to those who suddenly qualify and need legal assistance, such as when natural or national disaster strikes; LSC-funded programs were instrumental in assisting September 11 victims and families. Many low-income military families qualify for legal aid, and seek help with such matters as estate planning, consumer and landlord/tenant problems and family law.

—*LSC-funded programs are the nation's primary source of legal assistance for women who are victims of domestic violence.*—Legal aid programs identify domestic violence as one of the top priorities in their caseloads. While domestic violence occurs at all income levels, low-income women are significantly more likely to experience violence than other women, according to the U.S. Bureau of Justice Statistics. Recent studies also show that the only public service that reduces domestic abuse in the long term is women's access to legal aid.

—*The White House, the Congress and the American people support the LSC.*—President Bush supports funding for the LSC, recognizing that "[f]or millions of Americans, LSC-funded legal services is the only resource available to access the justice system." A bipartisan majority in Congress supports LSC; the Harkin-Smith-Domenici amendment ultimately added \$9.5 million to LSC's fiscal year 2003 budget at a time when many other domestic programs were being cut or flat-funded. The American public agrees that federal tax dollars should fund

LSC: a national poll reported in 2000 that 82 percent of those surveyed supported government-funded legal aid.

—*The private bar cannot replace the services provided by LSC-funded programs.*—The private bar actively encourages and organizes its members to provide pro bono legal services. Among many other efforts, the ABA's Standing Committee on Legal Aid to Military Personnel helps the military and the Department of Defense improve the effectiveness of legal assistance in civil matters to an estimated nine million servicemen and women and their dependents. However, a well-funded federal legal services program is essential to leverage other resources—human and financial—to help meet the legal needs of the poor. Without adequate federal funding, these non-LSC resources would be both less abundant and less effectively utilized—and, in many cases, would not exist.

CRIMINAL JUSTICE ACT: DEFENDER SERVICES PROGRAM

The ABA supports the request of the U.S. Judicial Conference for an hourly rate increase from \$90 to \$113 for compensation for panel attorneys who represent indigent defendants under the Criminal Justice Act. This modest increase is needed to continue to attract and retain competent panel attorneys. We also support the Judiciary's request for funds sufficient to increase the maximum hourly capital panel attorney rate from \$128 to \$157. The current capital panel attorney rate has not been raised since 1989, and now does not even cover overhead costs for many attorneys doing this most difficult work, work often done under highly stressful, emergency conditions. The Florida Supreme Court recently concluded that every capital case by definition involves "extraordinary circumstances and unusual representation." Without a fee increase, scores of qualified attorneys will simply stop taking capital cases.

CONCLUSION

The American Bar Association urges the Subcommittee to provide adequate funding for the Legal Services Corporation and the Defender Services Program. These two programs are essential for ensuring "equal access to justice" for all.

Thank you for your consideration.

PREPARED STATEMENT OF THE NATIONAL CENTER FOR VICTIMS OF CRIME

My name is Susan Herman, and I am the executive director of the National Center for Victims of Crime. I submit this testimony to urge members of the Subcommittee on Commerce, Justice, State and the Judiciary to raise the cap on the Victims of Crime Act (VOCA) Fund to \$685 million for fiscal year 2004. In addition, I urge you to prevent the creation of additional earmarks off the top of the VOCA Fund.

The National Center for Victims of Crime is the leading resource and advocacy organization for victims of crime. We are well acquainted with the funding needs of the nation's crime victim assistance programs. Since its founding in 1985, the National Center has worked with public and private non-profit organizations and agencies across the country, and has provided information, support, and technical assistance to hundreds of thousands of victims, victim service providers, allied professionals, and advocates. Our toll-free information and referral Helpline keeps us in touch with the needs of crime victims nationwide. Through our day-to-day interactions with our members and with the 7,800 crime victim service providers in our service referral network, we are aware of the work they do and of the impact that funding decisions at the federal level have on their ability to meet the needs of victims. We also interact with crime victim service providers through our Training Institute, which offers training on a variety of issues to service providers throughout the country. In short, we hear from victims and service providers every day about the impact and importance of the VOCA Fund.

As you know, the VOCA Fund consists of fines and penalties imposed on federal offenders. The bulk of the money is distributed each year by formula grants to the states to fund both their crime victim compensation programs, which pay many of the out-of-pocket expenses incurred by victims, and victim assistance programs, such as rape crisis centers, domestic violence shelters, victim assistants in law enforcement and prosecutor offices, and other direct services for victims of crime.

Last year's \$600 million cap on the VOCA Fund translated to a cut in funding for crime victim assistance programs of approximately eight percent. This eight percent funding decrease resulted from a change in the VOCA formula enacted in October 2001 as part of the anti-terrorism legislation, the USA PATRIOT Act, Pub. L.

107–56. That change increased the amount of VOCA Funds paid to states for their crime victim compensation programs, leaving less available for grants to victim service agencies.

The amount of VOCA money a state receives for compensation is limited to a percentage of what that state paid out in a given year. Previously, states received a reimbursement of 40 percent of what they paid out in crime victim compensation. Beginning in fiscal year 2003, that amount increased to 60 percent of what the state paid out. The increase in VOCA funds that states received for compensation programs limited the funds available for crime victim services. The USA PATRIOT Act had coupled the formula change with an incremental annual increase in the VOCA cap that would have offset the loss of funds for victim services. That annual increase mechanism, however, was stricken by language in the appropriations measures for fiscal year 2002.

The impact of that eight percent cut has been significant for programs already suffering from reduced private giving and state support. From around the country, programs have reported to us that they have had to:

- Lay off staff, or reduce full time staff to part time.*—Uniformly, programs reported that they were already operating at bare bones levels. The only area left to cut is staff time, which directly reduces services available to victims. Many programs also reported that there were no similar agencies or services in their area to whom victims could turn. The following response from a Louisiana rape crisis center was typical: “We have already cut as many positions as we can without shutting down entirely. We counsel victims of sexual assault, and any cut will mean no counseling for those victims.” In many instances, programs have only one or two paid staff, and the reduction in their time will necessitate elimination of extensive volunteer programs because there will be insufficient professional oversight and coordination.
- Limit their geographic coverage.*—For instance, from Colorado, Michigan, and Virginia we heard from programs that had been serving victims in 5 to 10 counties; now they have had to pull back from service in the outlying regions, leaving those victims without services. Some programs serving rural victims can no longer reimburse mileage or phone costs for volunteer advocates who offer services throughout a large area.
- Discontinue services for special populations of victims.*—In some places, victim assistance programs have recently conducted or been a part of needs assessments and strategic planning efforts, and thus have a clear picture of special victim populations which are not being adequately served. Many services that had been developed for special populations are being eliminated because of reduced funding. One program from Minnesota stated that their “immigrant and refugee program to sexual assault victims will be cut. The bilingual advocate for this program will most likely be laid off. The outreach to this population in our community has been building for the past 8 years. The trust and confidence from the community will be eroded. Most importantly, an underserved community will go unserved.”
- Discontinue services for secondary victims.*—For example, many battered women’s programs, which had relied on VOCA funding to support services for the children who witnessed or sustained abuse, are having to restrict and even eliminate those services. A North Carolina shelter told us, “In [our] county there have been two domestic violence murders in 2003 one of which was a stalking case. The five children involved in those cases need our programs and we may not have the resources to serve them. Then what?”
- Turn away crime victims.*—Victim service providers from Alabama, Massachusetts, and Nevada all reported that the numbers of victims seeking assistance, and the numbers of schools and other organizations seeking outreach programs, have increased at the same time the available funding has decreased. One North Carolina program noted, “County guidance counselors and medical professionals continue to identify and refer more and more children who are victims of family violence, sexual assault and sexual abuse due to the education provided by this agency to teach them how to recognize child victims/witnesses of domestic violence. Yet, we will not be able to offer our afternoon programming or summer programs to additional children until some of the current children enrolled in the program age out.”

The effect of this year’s cuts have been significant. The National Center for Victims of Crime is asking that the VOCA Fund cap be raised to \$685 million for fiscal year 2004, to help programs make up for the loss in funding this year and enable them to begin to expand their programs. When we asked victim assistance programs about their spending priorities for any increase in funding, they reported the following needs:

- Services to immigrant victims of crime.*—All over the country, there are limited services, or even a complete absence of services, for large groups of immigrant victims of crime. Such victims are often linguistically or culturally isolated. Without the availability of interpreters or bi-lingual service providers, such victims cannot access the services that may otherwise be available. Additionally, victims who come from a society where the police are not trusted, or a culture where sexual violence is unmentioned or domestic violence is condoned, often require a different approach to providing services. Effective victim services require ready access to service providers who are culturally knowledgeable and sensitive to these varying needs, and programs in Arizona, Georgia, Michigan, Mississippi, Nebraska, and Wyoming all listed providing services to immigrant victims as a priority.
- Services to victims in rural jurisdictions.*—Too many victims in rural jurisdictions still lack access to basic services. In many parts of the country, victims are hundreds of miles from the nearest rape crisis center or battered women's shelter. Victim service providers in Alabama, Idaho, Kentucky, and Montana all reported a need to expand efforts to cover multi-county areas through the creation of satellite offices, the use of volunteers or staff to travel to victims' homes or other locations; or to increase the use of the Internet to serve victims in rural communities.
- Assistance to victims with disabilities.*—One area of greatest need is in reaching and serving crime victims with disabilities: developmentally disabled victims, mentally ill victims, hearing impaired victims, and others whose disability makes them simultaneously more vulnerable to crime and less able to access existing services. Many service providers, including programs in Michigan, Minnesota and Pennsylvania, would like to expand their programs to provide appropriate services to such crime victims.
- Assistance to elderly victims.*—A number of victim assistance programs noted a need to increase their services to elderly victims of crime, who often lack other forms of support and who may require a service provider to visit them in their homes. Victim assistance programs in Ohio, Pennsylvania, Texas and Wyoming all listed services to elder victims as a priority.
- Assistance to teen victims.*—Many victim assistance programs are hoping to extend services to teen victims of crime, especially teen victims of dating violence. Providing prompt services to teen victims can significantly lessen the lifelong impact of crime, and programs in Indiana, Iowa, Minnesota, and Texas all described a need for services to teen victims.
- Providing more timely services to victims.*—Victims in many programs are waiting weeks or months to get into counseling or support groups; victims in the criminal justice system may not be contacted until close to the trial stage. Victim service providers in Colorado, Massachusetts, New York, and Virginia all spoke of the need to hire additional staff to eliminate or significantly reduce such waiting periods for services.
- Serving victims of non-violent crime.*—As the incidence of identity theft and fraud have increased, and the understanding of the impact of non-violent crime on victims has grown, many victim assistance programs, including those in Minnesota, Ohio, and Pennsylvania, expressed a desire to expand their services to include such victims.
- Technology investments to enhance victim services.*—Many victim assistance programs reported that outdated computer equipment limits their efficiency. There is also a great need for case management software and assessment tools to help programs improve and evaluate their effectiveness in serving victims of crime. Programs in Kentucky, Pennsylvania and Texas all noted such needs.

Finally, while our first priority is to see the cap on the VOCA Fund raised to \$685 million for fiscal year 2004, we also urge you to discontinue earmarks for federal positions off the top of the VOCA Fund. New earmarks on the Fund have been enacted over the last several legislative sessions, limiting the amount of money ultimately available to states to fund local programs. These earmarks provide for victim/witness coordinators in U.S. Attorneys' offices, for victim assistance in the FBI, and for an automated victim notification system at the federal level. Such expenditures are expected to be nearly \$34 million in fiscal year 2003. These earmarks result in a significant decrease in funding available to help the vast majority of crime victims—victims whose cases are prosecuted and who are served at the state and local levels. Such federal positions may be warranted, but surely Congress can find other sources of revenue to support federal employees.

The most important action Congress can take to help this nation's victims of crime is to provide the funding for services and compensation programs that help them rebuild their lives. Congress' creation of the VOCA Fund in 1984 was a land-

mark action that fundamentally changed the way our society responds to victims of crime. We urge you to continue this great effort, by raising the cap on the VOCA Fund to \$685 million, and resisting pressure to earmark the Fund. We must continue the progress of our national response to victims of crime.

PREPARED STATEMENT OF THE CALIFORNIA INDUSTRY AND GOVERNMENT CENTRAL
CALIFORNIA OZONE STUDY (CCOS) COALITION

Mr. Chairman and Members of the Subcommittee: On behalf of the California Industry and Government Central California Ozone Study (CCOS) Coalition, we are pleased to submit this statement for the record in support of our fiscal year 2004 funding request of \$500,000 from the National Oceanic and Atmospheric Administration (NOAA) for CCOS as part of a Federal match for the \$9.1 million already contributed by California State and local agencies and the private sector. NOAA was under contract for approximately \$700,000 to measure winds and temperatures during the CCOS field study. Currently, NOAA is under contract for \$250,000 to participate in the CCOS data analysis and modeling. This request will partially replace funding already spent for NOAA's participation in CCOS.

Most of central California does not attain federal health-based standards for ozone and particulate matter. The San Joaquin Valley is developing new State Implementation Plans (SIPs) for the federal ozone and particulate matter standards in the 2002 to 2004 timeframe. The San Francisco Bay Area has committed to update their ozone SIP in 2004 based on new technical data. In addition, none of these areas attain the new federal 8-hour ozone standard. SIPs for the 8-hour standard will be due in the 2007 timeframe—and must include an evaluation of the impact of transported air pollution on downwind areas such as the Mountain Counties. Photochemical air quality modeling will be necessary to prepare SIPs that are approvable by the U.S. Environmental Protection Agency.

The Central California Ozone Study is designed to enable central California to meet Clean Air Act requirements for ozone State Implementation Plans (SIPs) as well as advance fundamental science for use nationwide. The CCOS field measurement program was conducted during the summer of 2000 in conjunction with the California Regional PM₁₀/PM_{2.5} Air Quality Study (CRPAQS), a major study of the origin, nature, and extent of excessive levels of fine particles in central California. CCOS includes an ozone field study, a deposition study, data analysis, modeling performance evaluations, and a retrospective look at previous SIP modeling. The CCOS study area extends over central and most of northern California. The goal of the CCOS is to better understand the nature of the ozone problem across the region, providing a strong scientific foundation for preparing the next round of State and Federal attainment plans. The study includes six main components:

- Developed the design of the field study
- Conducted an intensive field monitoring study from June 1 to September 30, 2000
- Developing an emission inventory to support modeling
- Developing and evaluating a photochemical model for the region
- Designing and conducting a deposition field study
- Evaluating emission control strategies for upcoming ozone attainment plans

The CCOS is directed by Policy and Technical Committees consisting of representatives from Federal, State and local governments, as well as private industry. These committees, which managed the San Joaquin Valley Ozone Study and are currently managing the California Regional Particulate Air Quality Study, are landmark examples of collaborative environmental management. The proven methods and established teamwork provide a solid foundation for CCOS. The sponsors of CCOS, representing state, local government and industry, have contributed approximately \$9.1 million for the field study. The federal government has contributed \$3,730,000 to support some data analysis and modeling. In addition, CCOS sponsors are providing \$2 million of in-kind support. The Policy Committee is seeking federal co-funding of \$6.25 million to complete the data analysis and modeling portions of the study and for a future deposition study. California is an ideal natural laboratory for studies that address these issues, given the scale and diversity of the various ground surfaces in the region (crops, woodlands, forests, urban and suburban areas).

There is a national need to address national data gaps and California should not bear the entire cost of addressing these gaps. National data gaps include issues relating to the integration of particulate matter and ozone control strategies. The CCOS field study took place concurrently with the California Regional Particulate Matter Study—previously jointly funded through Federal, State, local and private sector funds. CCOS was timed to enable leveraging the efforts of the particulate

matter study. Some equipment and personnel served dual functions to reduce the net cost of the CCOS field study. From a technical standpoint, carrying out both studies concurrently was a unique opportunity to address the integration of particulate matter and ozone control efforts. To effectively address these issues requires federal assistance.

For fiscal year 2004, our Coalition is seeking funding of \$500,000 from the National Oceanic and Atmospheric Administration (NOAA). Meteorological data were continuously collected during the CCOS field program. Extensive meteorological data collected as part of the field study can be used by NOAA to strengthen its ongoing research activities such as improving meteorological forecasting and providing information on weather conditions along the Pacific coast for use in U.S. weather models. In addition, CCOS provides data for research on air flows in complex terrain. The improved results obtained from this research have national applicability.

Thank you very much for your consideration of our request.

PREPARED STATEMENT OF THE MONMOUTH UNIVERSITY SCHOOL OF SCIENCE,
TECHNOLOGY AND ENGINEERING

ESTABLISHMENT OF THE CENTER FOR COASTAL WATERSHED MANAGEMENT

The Department of the Interior's policies and practices reflect the fact that clean water is essential to all Americans. Water resources in the United States provide water to drink, water to irrigate crops, provide habitat for a diversity of fish and wildlife, as well as provide for recreational opportunities such as fishing, boating, and swimming. However, the U.S. Environmental Protection Agency (EPA) has acknowledged that a majority of our watersheds have water quality problems that include contamination with pathogens or toxic chemicals, nutrient enrichment, fish and wildlife habitat loss, and invasive species. According to the EPA, these problems continue to impair watersheds nationwide and prohibit the attainment of water quality goals. They conclude by stating that problems are complex and varied, and that governments working alone cannot solve all of them.

The Nation's fish and aquatic resources are among the richest and most diverse in the world and annually they provide ecological, social, and economic benefits to citizens and visitors. However, despite efforts to conserve fish and other aquatic resources, a growing number are declining and in need of special protection or management efforts in some part of their natural or historic range. According to the U.S. Fish and Wildlife Service (FWS), the reasons for these declines are linked largely to habitat loss or alteration and the impacts of harmful exotic or transplanted species. To move forward in efforts to conserve and manage aquatic resources and their habitats across the country, FWS acknowledges the need to take an ecosystems approach and form partnerships that promote collaboration among governmental agencies, organizations, and individuals.

Rationale for a Coastal Watersheds Approach

New Jersey is a state richly endowed with coastal resources. These resources support traditional fisheries and maritime industries as well as more contemporary businesses and rapidly growing new concepts in residential development. However, because of the rapid growth of both resident and tourist populations, the nation's most densely populated state faces enormous pressures balancing growth demand with the limited nature of its coastal resources.

The marine ecosystems within the state currently exhibit signs of stress and deterioration, as documented in the scientific and popular literature. As coastal use and development increase and coastal population continues to rise, impacts on the environment will become even more severe. Among the most important impacts of concern in the coastal zone are degradation and loss of habitats and the deterioration of water quality.

The health and vitality of New Jersey's marine resources are dependent upon the ability of governmental decision-making processes to protect and enhance the coastal environment and reduce environmental risk associated with unwise development and waste disposal practices. However, throughout the past decade New Jersey citizens have been disillusioned by what many perceive as an apparent inability to properly manage the coastal zone even after such events as beach closures, nuisance algal blooms, fish kills, contamination of habitats and organisms with pathogens and toxic chemicals, sewage treatment problems, depletion of fish stocks, and rampant coastal development resulting in nonpoint pollution problems in ocean waters, coastal bays, their tributaries and watersheds. A significant part of this frustration is due to the inability of multiple governmental units to collectively respond to very complex environmental phenomena.

Progress To Date

Projects conducted by the Monmouth University Center for Coastal Watershed Management will assist federal, state and local agencies, communities, and organizations in achieving their goals and objects as they relate to coastal watersheds and their natural and living resources.

During the past year, as plans for the Center for Coastal Watershed Management were under development at Monmouth, a number of projects dealing with watershed research and education were initiated:

- Bacterial source tracking (BST) methodologies are being used for identification of specific sources of fecal contamination in local rivers, lakes, and estuaries.
- Rapid bioassessment (RBA) techniques are being used to characterize several streams and lakes in Monmouth County.
- Fish communities in Whale Pond Brook, Deal Lake, Wreck Pond and the Manasquan River Estuary are being characterized using passive and active fishery sampling techniques.
- Local watershed and community groups have been assisted with organization and implementation of stream cleanups and assessments of impairments to the Whale Pond Brook and Poplar Brook watersheds.
- STE has hosted or conducted numerous seminars and workshops dealing with coastal and watershed issues in conjunction with a variety of groups:
 - Atmospheric Deposition (NJ Sea Grant Program)
 - Nuisance Algal Blooms (NJ Sea Grant Program)
 - Early Life History of Fishes of the Mid-Atlantic (NOAA/NMFS)
 - Watershed Educators Workshop (NJDEP/Monmouth County)
 - Stormwater Management and Restoration Techniques for Coastal Ponds and Lakes (NJDEP/Monmouth County)
 - Volunteer Watershed Monitoring (NJDEP/Monmouth County)
 - Watershed Area 12 Congress (NJDEP/Monmouth County)
 - Water Monitoring Training Course (Monmouth County/YSI, Inc.)

Current and Future Objectives

In New Jersey, persistent coastal issues remain to be addressed, including nonpoint source pollution, headwaters destruction, deposition of pollutants into waterways, and habitat degradation. The State of New Jersey has acknowledged the need for creative, comprehensive solutions to watershed preservation, protection, and management. In 1997, Department of Environmental Protection (NJDEP) began implementing a statewide watershed management framework to provide a means to further restore and maintain the physical, chemical, and biological integrity of waters in the state using sustainable management principles that allow a more holistic, rather than site-specific, approach to most effectively protect water resources. The state's watershed management framework is based on three key components: a geographic focus; continuous improvement based on sound science; and partnership/stakeholder involvement.

The Monmouth University Center for Coastal Watershed Management (MU CCWM) will be housed within the School of Science, Technology and Engineering. The Center will spearhead the application of science and technology to the effective management of watershed resources in New Jersey's coastal environment. The Center, in partnership with the Monmouth County Health Department and with other regional organizations, will serve as a focal point for the development of leading edge approaches to the solution of problems facing local communities and decision-makers at all levels of government by:

- Promoting interdisciplinary studies of coastal watersheds by Monmouth University faculty, students, associates, and colleagues; and
- Fostering collaboration between citizens, watershed and community organizations, governmental agencies, local businesses, the scientific community, and other parties interested in watershed management and restoration.

Specific objectives of the Monmouth University Center for Coastal Watershed Management include:

- Strengthen teaching, research, and outreach at Monmouth University with emphasis on programs crossing university departmental boundaries as they relate to the environmental, social, and economic aspects of coastal watershed management.
- Provide a forum for the integration of knowledge from a wide array of technical disciplines in addressing watershed management issues.
- Establish an analytical capability to provide scientific information necessary for making informed watershed management decisions.

- Facilitate access to objective and scientifically sound information on effective techniques to protect and restore coastal and urban watersheds.
- Conduct community outreach programs highlighting the need for greater protection of our waters and reliable and effective ways of protecting and restoring coastal and urban watersheds.
- Conduct workshops and special programs for pre-college students and educators from local school districts.
- Conduct continuing professional education programs for practicing professionals in the form of short courses, workshops, and seminars.
- Involve undergraduate students in faculty-supervised independent research related to ecology, natural resource management, environmental and resource economics, and local environmental issues.
- Maximize University participation in the local, regional, and statewide watershed initiatives.

PREPARED STATEMENT OF THE AMERICAN MUSEUM OF NATURAL HISTORY

About the American Museum of Natural History

The American Museum of Natural History [AMNH] is one of the nation's pre-eminent institutions for scientific research and public education. Since its founding in 1869, the Museum has pursued its mission to "discover, interpret, and disseminate—through scientific research and education—knowledge about human cultures, the natural world, and the universe." It is renowned for its exhibitions and collections of more than 32 million natural specimens and cultural artifacts. With nearly four million annual visitors—approximately half of them children—its audience is one of the largest, fastest growing, and most diverse of any museum in the country. Museum scientists conduct groundbreaking research in fields ranging from all branches of zoology, comparative genomics, and informatics to earth, space, and environmental sciences and biodiversity conservation. Their work forms the basis for all the Museum's activities that seek to explain complex issues and help people to understand the events and processes that created and continue to shape the Earth, life and civilization on this planet, and the universe beyond.

Today more than 200 Museum scientists with internationally recognized expertise, led by 46 curators, conduct laboratory and collections-based research programs as well as fieldwork and training. The Museum's research programs are organized under five divisions (Anthropology; Earth, Planetary, and Space Sciences; Invertebrate Zoology; Paleontology; and Vertebrate Zoology), along with the Center for Biodiversity and Conservation (CBC). The Museum also conducts graduate training programs in conjunction with a host of distinguished universities, supports doctoral and postdoctoral scientists with highly competitive research fellowships, and offers talented undergraduates an opportunity to work with Museum scientists.

The Museum's Center for Biodiversity and Conservation, founded in 1993, is dedicated to enhancing the use of rigorous scientific data to mitigate critical threats to global biodiversity. The CBC draws on the strengths of the Museum's scientific, education, and exhibition departments to integrate this information into the conservation process and to disseminate it widely. It forges key partnerships to conduct conservation-related field projects around the world, train scientists, organize scientific symposia, present public programs, and produce publications geared toward scientists, policy makers, and the lay public. Each spring, the CBC hosts symposia that focus on conservation issues. In 2002, the symposium, "Sustaining Seascapes: the Science and Policy of Marine Resource Management," was co-sponsored by NOAA's Marine Protected Areas Center, along with other federal and private organizations, and examined the large-scale conservation of marine ecosystems, giving special consideration to novel approaches to the sustainable management of biodiversity and fisheries. The focus of 2003's symposium, held March 20–21, was on conservation issues related to increased ecotourism in Southeast Asia.

The Museum's vast collections are a major scientific resource, providing the foundation for the Museum's interrelated research, education, and exhibition missions. They often include endangered and extinct species as well as many of the only known "type specimens"—examples of species by which all other finds are compared. Within the collections are many spectacular individual collections, including the world's most comprehensive collections of dinosaurs, fossil mammals, Northwest Coast and Siberian cultural artifacts, North American butterflies, spiders, Australian and Chinese amphibians, reptiles, fishes, and one of the world's most important bird collections. Collections such as these are historical libraries of expertly identified and documented examples of species and artifacts, providing an irreplace-

able record of life on earth. They provide vital data for Museum scientists as well for more than 250 national and international visiting scientists each year.

An exciting chapter in the Museum's history will occur this spring when one of the flagship and most popular halls—the Hall of Ocean Life—reopens after an extension renovation. Drawing on the Museum's world-renowned expertise in Ichthyology as well as other areas of vertebrate as well as invertebrate zoology, the Hall will be pivotal in educating visitors about the oceans' key role in sustaining life on our planet. It will feature two new "Spectrum of Life" walls highlighting the extraordinary diversity of marine life, a completely renovated two-story diorama of the Andros Coral Reef, a spectacular sea floor slab from the late Jurassic Period, and panels showcasing fossil specimens and some of the earliest signs of life on Earth, as well as the beloved, and refurbished, 94-foot-long giant blue whale. The renovated Hall of Ocean Life, together with the new Halls of Biodiversity, Planet Earth, and the Universe and the rebuilt Hayden Planetarium (part of the new Rose Center for Earth and Space), will provide visitors a seamless educational journey from the universe's beginnings to the formation and processes of Earth to the extraordinary diversity of life on our planet.

With the reopening of the Hall of Ocean Life, the Museum will have a singular opportunity for public education about marine environments, and it will draw on its vast educational resources to do so. In its Halls of Biodiversity, Planet Earth, and Ocean Life, the Museum presents current science news through Science Bulletins—multimedia productions that bring the latest science news and discoveries to the public using high-definition video documentaries, kiosks, and the web. The Bulletins will present features on such issues as marine biodiversity report, ocean life discoveries, and more. In addition, the Museum's Education Department provides standards-based curricular materials and on-site programs for more than 400,000 students and teachers who visit the Museum in school and camp groups each year, as well as professional development programs for teachers, Moveable Museums that travel to schools and community sites, a model after-school program, award-winning online educational resources, and lectures, workshops, and field excursions for adult learners. The Museum's National Center for Science Literacy, Education, and Technology, launched in 1997 in partnership with NASA, employs innovative technologies to bring educational materials and programs to online audiences nationwide.

COMMON GOALS OF NOAA AND THE AMERICAN MUSEUM

Today, as throughout its history, the National Oceanic and Atmospheric Administration [NOAA] is committed to describing and predicting changes in the Earth's environment and to conservation and wise management of the nation's coastal and marine resources. It dedicates itself to forecasting environmental changes, providing decision makers with reliable scientific information, and fostering global environmental stewardship.

The American Museum shares NOAA's commitment to these environmental goals and to the scientific research, technologies, and public education that underlie them. Indeed, informed environmental stewardship and preservation of our planet's biodiversity and resources—in marine, coastal, and other natural environments and habitats—are integral to the Museum's most fundamental purposes. Museum scientists conduct research worldwide on conservation biology and habitat protection. Their investigations advance scientific understanding and public awareness of these vital issues. The Museum has also long been at the forefront of developing new research modes and methods, and today, throughout the science divisions and the CBC, AMNH investigators are exploring applications of GIS and remote sensing technologies to advance research pertinent to conservation and protecting threatened species and habitats.

The research programs of the CBC and the science divisions are enhanced by the Museum's research resources and technological capacity. New research tools—including molecular technologies, new collection types, innovations in computation, and GIS and remote sensing—are revolutionizing the way research can be conducted and data analyzed, as well as the way museum collections can be used and accessed by scientists, educators, policy makers, and the general public. The Museum has significant resources in these areas which it would bring to bear in its proposed partnership with NOAA. These include the following:

Molecular Laboratories.—The Museum's molecular systematics program is at the leading edge of comparative genomics and the analysis of DNA sequences for evolutionary research. It includes two Molecular Systematics Laboratories, with sophisticated technologies for sequencing and advanced genomics research. In these labora-

tories, more than 40 researchers in molecular systematics, conservation genetics, and developmental biology conduct their research on a variety of study organisms.

Frozen Tissue Collection.—The Museum is expanding its collections to include preserved biological tissues and isolated DNA in its new super-cold storage facility. This collection is an invaluable resource for research in many fields, including conservation biology, genetics and comparative genomics because it preserves genetic material and gene products from rare and endangered organisms that may become extinct before science fully exploits their potential. Capable of housing one million specimens, it will be the largest super-cold tissue collection of its kind. In the past two years, 15,000 specimens not available at any other institute or facility have already accessioned. At the same time, the Museum is pioneering the development of collection and storage protocols for such collections. To maximize use and utility of the facility for researchers worldwide, the Museum is also developing a sophisticated website and online database that includes collection information and digitized images.

Supercomputing.—Museum researchers now have onsite access to a 560-processor cluster—the fastest parallel computing cluster in an evolutionary biology laboratory and one of the fastest installed in a non-defense environment. This computing cluster, constructed in-house from scratch, represents one of the key achievements of Museum scientists who, over the last eight years, have taken a leadership role in developing and applying new computational approaches to deciphering evolutionary relationships through time and across species. Their groundbreaking efforts in cluster computing, algorithm development, and evolutionary theory have been widely recognized and commended for their broad applicability for biology as a whole. Indeed, the bioinformatics tools these Museum scientists are creating will not only help to generate evolutionary scenarios, but also will inform and make more efficient large genome sequencing efforts pertinent to biodiversity science as well as be applicable in other informatics contexts, in non-genomics areas of evolutionary biology as well as in other disciplines.

Remote Sensing and Geographical Information Systems Technologies.—The CBC houses a Remote Sensing/Geographical Information Systems (RS/GIS) lab which has had noted success since it was launched in the fall of 1998. Wise conservation policy requires effective knowledge of the distribution of species and ecological communities at local, regional, and global scales. Without this information, it is difficult to decide where to allocate scarce conservation resources. Remote sensing technologies can provide essential data on such things as land-cover and land-use, as well as sea surface temperatures and chlorophyll content. GIS makes it possible for scientists to compare and visualize the relationships among satellite and legacy data, raw standardized samples, and data obtained through ground truthing. Because it provides the database backbone than can connect field work to analysis, GIS is becoming an indispensable component in environmental data analysis and is thus revolutionizing work in conservation.

The CBC uses its RS/GIS technologies in biodiversity and marine reserve research in various ways—for example, to identify sites suitable for biological inventory; to provide supplementary quantitative and qualitative data in and around study sites (e.g. extent of habitat fragmentation); and to develop persuasive visual depictions and digital presentations for reports, publications, and meetings.

Building on the scientific strengths and resources outlined above, the Museum now proposes to launch, in partnership with NOAA, a basic and applied research initiative that employs the latest technologies to advance scientific understanding of resource management and stewardship issues for marine and coastal environments. The explosion of research technologies creates a unique window of opportunity for the Museum to develop new ways to integrate these state-of-the-art analytical tools into its biological and environmental research, as well as to present results to the public in its exhibition halls, websites, and educational programs. It is this intersection of research capability and technological opportunity that underlies the planned initiative.

The Museum proposes a multifaceted initiative to include work in areas of concern it shares with NOAA, such as the following:

Conservation research using GIS.—Museum vertebrate and invertebrate zoologists carry out ambitious field work and collection expansion programs throughout the tropical freshwaters of the globe, conduct biotic surveys, and explore marine ecosystems:

—Ichthyologists, for example, study the evolution, behavior, and conservation of the largest and most diverse populations—and one of the most endangered of all vertebrate groups—the fishes. Their work concerns not only discovery and classification of many still unknown species but also the protection and conservation of many species whose habitats and survival are at risk.

—Invertebrate zoologists are discovering many species of marine invertebrates. Field research in the Florida Keys, for instance, is documenting for the first time the extraordinary biodiversity of marine mollusks.

These researchers, in studying endangered ecosystems, marine species, and marine reserves, can use GIS to develop finer, tighter, more precise datasets. Also, GIS analysis enables them to ask more sophisticated and flexible questions, and to discover patterns, series, and gradations.

Biodiversity conservation.—CBC investigators are conducting important research field projects relying on the capacities of GIS/RS. They include:

—*Marine reserve networks.*—Researchers in the CBC's marine program are using GIS to analyze the physical, biological, and cultural processes affecting coral reef systems in the Bahamas. GIS is an indispensable tool in this research, because it allows the researchers to integrate maps with sets of biophysical and socioeconomic data and to create dynamic models for testing hypotheses about marine reserve networks in a spatially realistic framework.

—*Humpback whales in Madagascar.*—Collaborating researchers from the American Museum and the Wildlife Conservation Society are using GIS to track the migrations of Humpback whales in the western Indian Ocean region. They are creating a database that contains identification photos, biopsies, DNA sequences, and sighting information for hundreds of individual whales. Being able to identify individuals at the genetic level will enable researchers to unravel the complex migration patterns of Humpbacks with greater accuracy, thus improving conservation practices and increasing understanding of marine sanctuaries, the status of whales, their population structure, abundance, and recent trends in their distribution.

—*Biotic surveys and inventories.*—The CBC conducts floral and faunal surveys in ecologically threatened regions of Bolivia and Vietnam. Both countries are extremely rich in biodiversity that is threatened by high rates of deforestation and inadequate conservation planning. These biotic surveys provide essential data on the distribution and abundance of species, thus enabling researchers to analyze the role of climate change on land cover and develop plans to reduce threats to biodiversity. They also create an opportunity for Museum researchers to train local field biologists and conservation managers how to conduct surveys using remote sensing data and biophysical measures and how to apply results to the long-term management and conservation of biodiversity.

Collections data and access.—Museum researchers can use GIS to bring the Museum's vast collections alive and to increase exponentially the analyses that researchers can carry out for conservation research and decision making. By coupling GIS with the Museum's increasingly strong web presence to provide easy access, researchers worldwide will be able to pose more sophisticated questions and uncover new connections and relationships among the collections data. For example, by using georeferenced data, researchers can compare current maps with legacy data to trace environmental changes over time.

Public education and outreach.—As an added benefit of the proposed partnership with NOAA, the Museum plans to feature current NOAA-related science and discovery in the renovated Hall of Ocean Life as well as in its other educational programs and resources. With access to GIS applications and datasets, the Science Bulletins, for example, can promote public understanding of current science through global earth science-related datasets, maps, and more.

These research applications for GIS and other technologies demonstrate the Museum's enormous potential for using cutting-edge tools to help advance environmental forecasting, provide decision makers with reliable scientific information, and foster global environmental stewardship.

We therefore request \$1 million to join in partnership with NOAA to advance basic and applied research that will strengthen resource management and conservation of marine and coastal environments and public understanding of these issues. In so doing, the Museum will support its participatory share with funds from non-federal as well as federal sources. By generating critical scientific knowledge about the vital role of ocean and marine environments, we can advance our shared commitment to environmental stewardship so pivotal to our nation's and our planet's health.

PREPARED STATEMENT OF THE CITY OF GAINESVILLE, FLORIDA

Mr. Chairman: On behalf of the City of Gainesville, Florida, I appreciate the opportunity to present this written testimony to you today. The City of Gainesville is seeking federal funds in the fiscal year 2004 Commerce, Justice, State and Judiciary

Appropriations bill to assist with the following innovative projects the City is undertaking:

—The Joint Communications Project, to facilitate communication and data sharing between our urban area public safety and court system agencies. The project is an innovative crime data gathering, reporting and training system that will include a Geographic Information System (GIS), interactive Internet/Intranet applications, Crime Mapping and automated reporting through the use of laptop computers. The goal is to obtain accurate, timely information that will be shared with the appropriate criminal justice system entities and/or individuals and to focus efforts on training others in this highly technical area of law enforcement.

Joint Communications Project

The City of Gainesville seeks a federal funding strategy to implement an innovative crime data gathering, reporting and training system that will include a Geographic Information System, (GIS), interactive Internet/Intranet applications, Crime Mapping and automated reporting through the use of laptop computers. Though portions of this project have been attempted by other agencies, the Gainesville Police Department will become one of the first law enforcement agencies in the state to gather, analyze and provide information regarding crime and quality of life type incidents in such an efficient, comprehensive and automated manner.

The goal is to obtain accurate, timely information that will be shared with the appropriate criminal justice system entities and/or individuals and to focus efforts on training others in this highly technical area of law enforcement. At least one outcome of this effort will be the facilitation of communication and data sharing between our urban area public safety and court system agencies through the use of system-wide technology upgrades. The impact for the entire region is considerable, since this county serves as the regional center for much of rural north Florida's medical care, disaster management, and criminal justice services. The estimated funds needed to continue these efforts are \$4.77 million.

The City of Gainesville, located in the north central portion of the State of Florida, is a diverse community of 110,000 and serves as the county seat for Alachua County and its additional 130,000 residents. Gainesville is the home of the University of Florida and serves as the regional business center for the surrounding, predominately rural counties. The community is served primarily by three law enforcement agencies, the Gainesville Police Department, the University Police Department and the Alachua County Sheriff's Office representing approximately 625 sworn men and women. The City of Gainesville has been a proven leader for many years in the field of law enforcement with innovative programs developed here being adopted by agencies from around the nation. Over the past 15 years the City has been dedicated to the principles of Community Oriented Policing and is one of the few agencies in the nation to apply its concepts department wide. The City and County serve as the regional center for much of rural north Florida's medical care, disaster management, and criminal justice services.

The need for this system is driven by the lack of availability of resources provided to tier 1 (population over 250,000) and tier 2 (seat of government) cities that have been funded by prior Federal initiatives. Although the region has a total population over 450,000 and geographic area of 8,500 square miles, it is not within the primary grant recipient categories in previous efforts. However, considerable efforts have been made to provide resources through other means and utilizing existing resources. The estimated funds needed to continue these efforts are \$4.77 million.

This community faces problems endemic to communities nationwide. In a time where the individual on the street can obtain any amount of immediate and up to date information, the law enforcement officer must often make decisions based on information that is incomplete or out of date. The City of Gainesville has taken steps to attempt to partially remedy this situation by combining communications systems with area law enforcement in an effort allowing neighboring agencies to at least communicate by voice transmission. What we are seeking is the funding to take these initial steps to the next level providing the officer on the street with clear, complete, and accurate information about the situations they encounter. Included in this project is the benefit of data sharing between agencies working in this community allowing better informed decision making and improved distribution of resources. The various portions of this program are designed to work together to provide improved, more effective service to the residents of this community.

The project consists of:

—Equipping law enforcement, fire personnel and emergency medical responders with interoperable mobile data communications system. (\$3.54 million), and

—System wide upgrades to improve data collection, incident assignment and dissemination of data to allow combined operations. (\$1.23 million).

Communications interoperability and accurate, timely data collection are crucial to law enforcement and disaster response. Recent events such as acts of domestic terrorism, natural disasters, anti-war protests and mass casualty tragedies have highlighted the importance of coordinated interactions among public safety agencies from all levels of government. This ability to interoperate among public safety responders can be measured in lives saved. Interoperability consists of the ability of public safety personnel from one agency to communicate by radio and data transmission with personnel from other agencies on demand and in real time. To achieve interoperability requires improving public safety wireless communications by addressing each of the five areas of interoperability—coordination and partnerships, funding, spectrum, standards and technology, and security.

The Alachua County Sheriff, with funding from the City and County, operates a combined communication center constructed in fiscal year 2000 with \$4.2 million in local funding. The center serves five law enforcement agencies, eleven fire rescue agencies, the county correctional facility, multiple government agencies of the city and county, a regional airport, and an industrial fire brigade. The local city owned utility, Gainesville Regional Utilities, provides an owned and operated 800 Mhz. Trunked Radio System (voice-only) to all of these agencies, along with another, the University of Florida's Police Department. This project has demonstrated the nadir of the interoperability standard promulgated by the FCC and other Federal agencies. The infrastructure for digital interoperability has also been built into the system, but thus far only one agency, because of its small numbers of units, has been able to make that next step into wireless data communications. The funds being sought for data interoperability will take the system to the next step by enhancing joint response capability, information sharing, data acquisition, intelligence gathering and dissemination, data security, and agency efficiency. While each entity alone and in joint projects such as the communications center has attempted to address these shortcomings, the high capital cost of these acquisitions is the major stumbling block to providing the final step to what is truly the pinnacle of interoperability achievement in a medium-sized community (225,000 total county population).

The utilization of a mobile data system has numerous advantages for the law enforcement officer as well as for the public. Removing the reliance on strictly verbal communication by way of radio and widening the information flow through direct data communications results in an enhancement of the ability to successfully resolve problems in the field. Laptop computers as in-car computer aided dispatch terminals significantly increase the ability for public safety officers to communicate.

Computers used in this manner can perform many important tasks. The mobile data computers can send and receive information between the officer and the dispatcher, including calls for service. Non-emergency calls are forwarded from the dispatcher to the appropriate unit without the need to transmit the information verbally over the radio, thus saving "air-time" for use in emergency situations and reducing the possibility of misunderstanding or receiving incorrect information. This also allows an increase in the amount of information the officer in the field has available in responding to situations. Additionally there is the potential for a decrease in the need for additional dispatchers even if the number of calls for service increases.

Through the use of mobile data computers officers and supervisors can find the location of other officers and check on their current status. Eliminating the need for officers to request this information from a dispatcher gives all members of the agency a complete picture of the availability of officers for calls for service. Officers can also refer to information about calls awaiting dispatch and information regarding previous calls for service. Officers would be able to view past and current activity within his/her assigned area. Obtaining pertinent information in a timely manner permits the officer(s) to make more informed strategic and investigative decisions. This accessibility to information would permit officers to better inform citizens and business owners regarding activities. In addition officers would be able to communicate vehicle-to-vehicle by sending messages from one officer to another. This eliminates the need for officers to use "air-time" with less important transmissions. Law enforcement officers can conduct computer checks on wanted persons and stolen vehicles without having to tie up a dispatcher. This allows officers to check a large number of persons and vehicles, which can significantly increase the number of people who are arrested for warrants and the number of recovered stolen vehicles. A single dispatcher can only handle one (1) request at a time, while the computer system can handle numerous requests at the same time.

In a time where crime knows no geographical boundaries, the ability to easily share timely information between differing agencies is of great importance. The abil-

ity for field officers to share information is a growing concern. Incidents spill across jurisdictional boundaries and there is an increasing need to share resources between agencies. The widening of the data pipeline to the field officer allows more flexibility and increases the amount of information readily available. The use of mobile data computers would allow increased and easier information sharing which should improve the ability of officers to respond to most situations.

PREPARED STATEMENT OF THE HOOPA VALLEY TRIBE

He Yung: my name is Clifford Lyle Marshall, Chairman of the Hoopa Valley Tribe. The Hoopa Valley Tribe is located in Northern California and in the County of Humboldt. Our treaty was signed providing the whole Hoopa Valley as a reservation. It was not until 1876 that an executive order was signed acknowledging this treaty. Since first European contact the culture and tradition remains to this day.

The culture of the Hoopa Valley People is a way of life. Our ceremonial dances are healing or payer dances. These dances are held for spiritual meaning performed at sacred places, to balance the world. The Hoopa Valley People lived in harmony for over 10,000 years prior to European Contact. We had our own laws and rules that our people followed to live together and settle controversial issues by a form of payment.

Currently we have a Tribal Court and Tribal Police Department that operates on a daily basis and is utilized by the Hoopa and surrounding Communities. We do not receive any of the monies for fines or tickets issued on the Hoopa Valley Tribal Reservation this money is collected by the State of California. This is not helping our community as far as administering the law enforcement or Tribal Court Programs. Our community loses approximately \$750,000 annually in fines that should be distributed back to the Hoopa Valley Tribe to offer more services to our community. Further, the county refers probationary matters, such as counseling and the like, to our Human Services Department without paying part of expenses. This is becoming costly and burdensome to the Tribe.

Law Enforcement operations consist of many diverse activities which are directed toward the attainment of Department objectives. Activities such as patrolling and issuing traffic citations are not objectives in themselves, rather, they are methods of achieving the real objectives of preventing and deterring crime, arresting criminal offenders, and preventing traffic accidents.

Law Enforcement needs:

- 15 Full Time Officers (at \$36,000 per year) = \$540,000.00
- 6 Part Time Positions (at \$18,000 per year) = \$108,000.00
- 7 Dispatchers
- 2 Full-time: $\times \$22,880.00 = \$160,160$
- 5 Part-time $\times \$11,440.00 = \$57,200$
- Vehicles: 3 at 35,000 = \$105,000
- Gas/maintenance/other = \$50,000
- Communications = \$12,000.00

Tribal Court Needs

A new building. The current building is over 78 years old. We are growing as a community and will need to grow to accommodate the needs as follows:

- Automated Case Management System: \$26,000
- Personnel and Automated Court Services: \$395,000
- Law Library: \$15,457
- Structural Modification: \$1,336,000.00
- Tribal Court Improvements: \$43,800

TRIBAL COURT NEEDS ASSESSMENT

The Hoopa Valley Tribal Court's prospective improvements are listed below according to the level of priority within each category. We have included a brief summary of information, which follows each list. Please note that some of the items are listed below as autonomous functions and the court lists them in the interest of demonstrating their supplemental impact upon the court's ability to function effectively within our jurisdiction.

Unresolved Essential Tribal Court Needs

- Automated Case Management System \$26,000.00
- Telephone System with Voice Mail

Our court currently operates on a hard paper file system with very little computer management backup. This creates a burden upon the court because it compromises

the court's ability to effectively manage its caseload. As our caseload begins to increase as a result of recent legislative activity, the daily operations of the tribal court will increasingly begin to diminish in the absence of the above listed requirements.

Our current telephone system is antiquated and problematic. Our Court employs the use of a single answering machine, which makes it necessary to personally manage all incoming telephone calls, which is often an ineffective use of the current clerk's time.

Funding Requirements for Personnel and Ancillary Court Services

Existing Positions

—Court Liaison Officer/Bailiff Subsidization \$24,000.00

Proposed Positions

—Deputy Court Clerk \$27,000.00
 —Public Defender \$45,000.00
 —Probation Officer \$40,000.00
 —Mediator/Mediation Services Provider \$70,000.00
 —Associate Judge \$60,000.00
 —Legal Aid Provider \$36,000.00
 —Guardian Ad Litem \$46,000.00
 —Public Guardian \$47,000.00

Our existing personnel have repeatedly proven themselves committed both to the Tribal Court and to its community. Although the budget has not previously allowed for any substantial increases, the tribal court staff deserves to be adequately compensated for their exemplary work. The Hoopa Valley Tribal Police Department has recently provided the court an opportunity to utilize a Court Liaison Officer who functions as a liaison between the court, the law enforcement department, and the community. The court would like to retain this myriad of services by supplementing the CLO salary in conjunction with the Hoopa Valley Tribal Police Department.

Law Library

—Three Computers \$6,000.00
 —One Computer Printer \$257.00
 —Subscription to Lexis-Nexis on line legal search engine \$600.00
 —Self Help Legal Aid Manuals \$8,600.00

Our Court is required to provide a legal library to the public. This library currently consists of the entire Hoopa Valley Tribal Law and Order Code and the Indian Law Reporter. These often prove sorely inadequate in meeting our public's needs. We would ultimately like to provide three computers that would allow citizens to conduct legal research via a computer generated legal search engine. We would also like to empower our litigants to represent themselves using Self-Help manuals that we would provide in our library.

Necessary Structural Modifications

—Secured Parking Area \$10,000.00
 —Court Renovation \$126,000.00
 —Juvenile Detention Facility \$585,000.00
 —Youth Regional Treatment Facility \$615,000.00

The court staff currently utilizes 90 percent of the court's available parking. This creates a problem for persons attempting to access the court. Our courthouse also needs a great deal of structural renovation. Our courthouse has had very basic maintenance services in the 38 years that it has existed. Our building requires a great deal of renovation and preventive maintenance in order to secure its continued existence for the coming years. We have a new juvenile justice avenue available in our court. The effectiveness of this juvenile court would be tenfold with the use of ancillary programs such as a detention facility and a treatment facility. The court is ready to assist juveniles and the families of juveniles in need, and these ancillary programs would greatly increase our effectiveness in doing so.

Tribal Court Improvements

Tables, Chairs, Desks \$10,000.00
 Fireproof File Cabinets \$800.00
 Metal Detector \$5,000.00
 Court Automobile \$28,000.00

Some additional minor improvements such as these listed above would assist in the daily functioning of the court. Our courtroom needs plaintiff and defendant tables, and we are currently utilizing very old court furniture that belongs to the state

court. We need additional file cabinets with the ability to protect our files from damage, and security and convenience necessitate the additional listed items.

PREPARED STATEMENT OF THE NATIONAL ASSOCIATION OF UNIVERSITY FISHERIES
AND WILDLIFE PROGRAMS

The National Association of University Fisheries and Wildlife Programs (NAUFWP) appreciates the opportunity to submit testimony concerning the National Sea Grant Program in the fiscal year 2004 budget of the National Oceanic and Atmospheric Administration (NOAA). NAUFWP represents approximately 55 university programs and their 440 faculty members, scientists, and extension specialists, and over 9,200 undergraduates and graduate students working to enhance the science and management of fisheries and wildlife resources.

The Office of Oceanic and Atmospheric Research (OAR) is the main research arm of NOAA, contributing to all other Line Offices and Strategic Plan goals and providing the scientific basis for national policy decisions in key areas. OAR supports a world-class network of scientists and environmental research laboratories, and partnerships with academia and the private sector. NAUFWP supports the President's fiscal year 2004 request of \$380.6 million for Oceanic and Atmospheric Research.

The National Sea Grant College Program provides essential academic research, education, and extension services for the oceans community. Sea Grant research is critical to the maintenance and improvement of the nation's marine resources. We were concerned by the Administration's proposal in fiscal year 2003 to move the Sea Grant College Program to the National Science Foundation (NSF). While the NSF's record of accomplishment in basic research is unparalleled, their strength is not in the deployment of applied research, education, and extension—the very characteristics that have made the National Sea Grant College Program so successful. Unfortunately, the Sea Grant program has been under funded for many years. Therefore, NAUFWP strongly supports the maintenance of the Sea Grant Program in the NOAA budget, and urges Congress to appropriate \$68.41 million for this program in fiscal year 2004.

NAUFWP supports the National Invasive Species Act Program, and the Marine Aquaculture Program, two partnership programs within NOAA that provide information to support policy and management decisions, increase knowledge of coastal and marine ecosystems, and provide the scientific basis for enhancing the Nation's marine economic sector. NAUFWP supports the Administration's \$1 million increase for the NOAA Invasive Species Initiative, and the \$2.6 million request for the NOAA Marine Aquaculture Program. We urge Congress to appropriate these amounts for fiscal year 2004.

Thank you for considering the views of universities with fisheries and wildlife programs. We look forward to working with you and your staff to ensure adequate funding for fish and wildlife research, education, and conservation.